GOVERNMENT OF INDIA
LEGISLATIVE DEPARTMENT.

THE

UNREPEALED GENERAL ACTS

OF

THE GOVERNOR GENERAL IN COUNCIL

WITH CHRONOLOGICAL TABLE.

IN THREE VOLUMES.

VOL. I,

FROM 1834 TO 1863, BOTH INCLUSIVE.

CALCUTTA:
OFFICE OF THE SUPERINTENDENT OF GOVERNMENT PRINTING.
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PREFACE

THIS, the first volume of the revised edition of the Acts of the Governor General in Council, is published under the authority of the Government of India, and contains the unrepealed Acts passed between the years 1834 and 1863 (both inclusive), which extend, or are extendible, to the whole of British India or to the Presidency Towns.

It is founded on the official copies of the Acts supplied by the Home Department or preserved in the Legislative Department.

The only changes made in reprinting are the following:—

(*a.*) Repealed portions of Acts have been omitted, except in some cases where the repeal is not specific. In such cases the repeal is mentioned in a foot-note.

(*b.*) Arabic numerals have been substituted for the Roman numerals used in the earlier Acts to denote the section-numbers.

(*c.*) In some instances marginal notes have been added; in others, they have been shortened or corrected.

(*d.*) Words belonging to Oriental languages have been uniformly spelt.

(*e.*) To facilitate the reading of the Acts, lengthy sections have sometimes been divided into clauses and paragraphs.

(*f.*) Where an Act directs that a section, a clause, or words be inserted in a former Act, in reprinting the former Act the insertion has been made.

(*g*.) Where one Act refers to another and such reference is directed by a subsequent Act to be read as if made to the latter Act, the number, year and title of the latter Act have, as a rule, been substituted in the text.

The Registrar, Legislative Department, is responsible for correct printing of unaltered matter.

Some foot-notes have been added. They are chiefly (*a*) cross-references to Indian Acts; (*b*) references to English Statutes from which Indian Acts have been copied; (*c*) references to notifications in Indian Gazettes; and (*d*) references to the more important decisions of the High Courts as to the interpretation of Indian Acts other than the three Codes. Extracts have also been occasionally made from the Statements of Objects and Reasons and the Reports of Select Committees. It is hardly necessary to say that these notes are not authoritative.

The Chronological Table prefixed enumerates all Acts of the Governor General in Council passed during the period comprised in this volume, and shews at what pages those now printed will be found. It also shews whether a given Act has been repealed wholly, in part, or locally, and, in the case of unrepealed local Acts, where it is proposed to print them.

WHITLEY STOKES,
Secy. to the Govt. of India,
Legislative Department.

SIMLA;
8*th August* 1875.

CHRONOLOGICAL TABLE OF ACTS OF THE GOVERNOR GENERAL IN COUNCIL.

Year.	Number.	Subject-matter.	How disposed of.
1834	I	Governor General ...	Rep., VIII of 1868.
	II	Secretaries to Government ..	Printed, General Acts, p. 1.
1835 ...	I	Governor of Madras ..	Rep., VIII of 1868.
	II	Assam, Arracan, Tenasserim	Rep., as to Arracan and Tenasserim, XII of 1862. Printed, Lower Provinces Code. ,, Assam Code.
	III	Claims under certain Regulations	Rep., VIII of 1868.
	IV	Justices of the Peace, Calcutta	Rep., VIII of 1868.
	V	District Munsifs, Madras ...	Rep., VIII of 1868.
	VI	Khási Hills and Cachar ...	Rep., as to Khási Hills, XXII of 1869, section 3. Printed, Lower Provinces Code. ,, Assam Code.
	VII	Sessions Judges ...	Rep., VIII of 1868.
	VIII	Sales in Satisfaction of Decrees for Rent ...	Rep., XVI of 1874.
	IX	Salt Chaukís, Bengal ...	Rep., Bengal Act VII of 1864.
	X	Proof of Acts of Governor General in Council ...	Rep., II of 1855.
	XI	Printing-presses . .	Rep., XXV of 1867, section
	XII	Repealing Madras Regulations IV. 1829 and IV. 1830 ...	Rep., VIII of 1868.
	XIII	S. F. Adálat, Bombay ...	Rep., XVII of 1862.
	XIV	Magistrates, Bombay ...	Rep., VIII of 1868.
	XV	Evidence: Contempt: Perjury: Madras . .	Rep., XVII of 1862.
	XVI	Partial repeal of Bengal Regulation V. 1830, section 2.	Rep., VIII of 1868.
	XVII	Silver and Gold Coinage ...	Rep., XXIII of 1870.
	XVIII	Chaprásses	Rep., XVII of 1862.

Year.	Number.	Subject-matter.	How disposed of.
1835 ...	XIX	Assistant to Agent for Sardárs in Dekkhan	Printed, Bombay Code.
	XX	Police, Bombay .	Rep., XVII of 1862.
	XXI	Copper Coinage ...	Rep., XIII of 1862.
1836 ...	I	Light-house Funds, Cambay	Rep., XVII of 1858.
	II	Customs-duties, Bombay ...	Rep., VIII of 1868.
	III	Cattle-duty, Salsette ..	Rep., VIII of 1868.
	IV	Insolvent Debtors ..	Rep., VIII of 1868.
	V	Enforcement of Decrees, Bengal	Rep., VIII of 1868.
	VI	Prisoners under Mad. Reg. III. 1802, s. 22.	Rep., XVII of 1862.
	VII	Municipal Taxes, Bombay ..	Rep., VIII of 1868.
	VIII	Principal Sadr Amíns, &c., Bengal	Rep., XII of 1873.
	IX	Oaths ...	Rep., X of 1873.
	X	Indigo Contracts, Lower Provinces and N. W. Provinces.	Rep. in part, VIII of 1868; XIV of 1870; XVI of 1874. Printed, Lower Provinces Code. „ N. W. Provinces Code.
	XI	Non-exemption from Jurisdiction of certain Courts	Rep., VIII of 1868.
	XII	Decrees of Nawáb of Farakhábád	Rep., XIII of 1860.
	XIII	Sicca Rupees: Pice .	Rep., VIII of 1868.
	XIV	Customs-duties, Bengal	Rep., XIII of 1871.
	XV	Sabáthu	Rep., XXXII of 1850.
	XVI	Vakíl in Addl. Govt. Commissioner's Office, Madras ...	Rep., VIII of 1868.
	XVII	Begam Samrú ...	Rep., VIII of 1868.
	XVIII	Bhor Ghát Toll ..	Rep., II of 1837.
	XIX	Bank of Bengal ..	Rep., VIII of 1868.
	XX	Batwáras, Lower Provinces	Rep. in part, XIX of 1863; XIV of 1870; XVI of 1874. Printed, Lower Provinces Code.
	XXI	Zilas, Lower Provinces and N. W. Provinces.	Rep. in part, XVI of 1874. Printed, Lower Provinces Code. „ N. W. Provinces Code.
	XXII	Eastern Canal Tolls, Lower Provinces	Rep., XII of 1873.
	XXIII	Gumsur and Suráda Zamindárís ...	Rep., XXIV of 1839.

Year.	Number.	Subject-matter.	How disposed of.
1836 ...	XXIV	Judicial Officers, Madras and Bombay	Rep., VIII of 1868.
	XXV	Warehousing Ports ...	Rep., XII of 1873.
	XXVI	Governor General's Camp Police	Rep. in part, XVI of 1874. Printed, General Acts, pp. 1, 2.
	XXVII	Vakíls, Madras... ...	Rep., XI of 1864.
	XXVIII	Municipal Assessments, Madras	Rep., XXVI of 1856.
	XXIX	Sadr Amíns, Madras ...	Rep., VIII of 1868.
	XXX	Thugs	Rep., XVII of 1862.
	XXXI	Government Grants, Madras	Rep., XXIII of 1871.
	XXXII	Import and Export of Sugar	Rep., XIX of 1854.
1837 ...	I	Justices of the Peace, Calcutta	Rep., VIII of 1868.
	II	Bhore Ghát Tolls, Bombay ...	Rep., VIII of 1851.
	III	Transfer of Suits, Bengal ...	Rep., XVI of 1874.
	IV	Property in Land ...	Rep. in part, XVI of 1874. Printed, General Acts, p. 2.
	V	Native Emigrants ...	Rep., XIV of 1839.
	VI	Málgúzárs, Katák ...	Rep. in part, XIV of 1870; XVI of 1874. Printed, Lower Provinces Code.
	VII	Charter Courts: Pardons ...	Rep., V of 1871.
	VIII	Anjengo and Changancherry, Madras	Rep., III of 1838.
	IX	Succession to Pársís' Immoveable Property	Rep., VIII of 1868.
	X	Claims to Lands, Straits Settlements	Omitted.
	XI	Repealing Bom. Reg. I. 1820, in part	Rep., VIII of 1868.
	XII	Incombustible Roofs, Calcutta	Rep., XIV of 1856.
	XIII	Courts Martial	Rep., VIII of 1868.
	XIV	Foreign Bottoms ...	Rep., VIII of 1868.
	XV	Chaukídárí Assessment ..	Rep., XX of 1856.
	XVI	Customs	Rep., XII of 1873.
	XVII	Post Office	Rep., XVII of 1854.
	XVIII	Thugs	Rep., XVII of 1862.
	XIX	Competence of Witnesses ..	Rep., VIII of 1868.
	XX	Immoveable Property, Straits Settlements	Omitted.
	XXI	Office Oaths and Declarations	Rep., X of 1873.
	XXII	Revenue offences, Madras Collectorate	Rep., XVI of 1874.
	XXIII	P. S. Amíns, Madras ...	Rep., XVII of 1862.
	XXIV	Police, Bengal	Rep., VIII of 1868.

Year.	Number.	Subject-matter.	How disposed of.
1837	XXV	Judiciary System, Bengal ...	Rep., XII of 1873.
	XXVI	Governor General	Rep., VIII of 1868.
	XXVII	Salt-duties, Bombay	Rep., Bombay Act VII of 1873.
	XXVIII	Repeals Bengal Regulation X. 1829, in part ...	Rep., VIII of 1868.
	XXIX	Language of Judicial and Revenue Proceedings ..	Rep., XVI of 1874.
	XXX	Police Amíns, Madras ...	Rep., XVII of 1862.
	XXXI	Coinage	Rep., XIII of 1862.
	XXXII	Emigration	Rep., XIV of 1839.
	XXXIII	Heads of District Police, Madras ...	Rep., XVII of 1862.
	XXXIV	Judiciary System, Madras	Rep., VIII of 1868.
	XXXV	Decrees, Madras ...	Rep., X of 1861.
	XXXVI	Criminal Jurisdiction, Madras	Rep. in part, XIV of 1870; XVI of 1871. Printed, Madras Code.
	XXXVII	Political Offences, Bombay ...	Rep., XVII of 1862.
	XXXVIII	Local Agent, Bengal Regulation XIX. 1810 ...	Rep., VIII of 1868.
1838	I	Customs, Bombay ...	Rep., I of 1852.
	II	Salt, N. W. P.... ..	Rep., XIV of 1843.
	III	Joint Criminal Judge, Cochin	Rep., XVII of 1862.
	IV	Perjury, Sadr Díwání Adálat, Bombay ..	Rep., VIII of 1868.
	V	Bengal Bonded Warehouse	Rep. in part, V of 1854. Printed, Private & Personal Acts.
	VI	Enquiries into Charges against Public Servants, Bombay...	Rep., XXXVII of 1850.
	VII	Zila Judges, Bengal ...	Rep., XVI of 1874.
	VIII	Bhore Ghát Tolls ...	Rep., VIII of 1851.
	IX	Fines, Bombay... .	Rep., XVII of 1862.
	X	Kumáon ...	Rep., XV of 1874.
	XI	Remuneration of Amíns effecting Partitions	Rep. locally, XIX of 1863; in part, XIV of 1870. Printed, Lower Provinces Code.
	XII	Hidden Treasure, Madras ...	Rep. in part, XVI of 1874. Printed, Madras Code.
	XIII	Power to extend Bengal Regulation XII of 1833 ...	Rep., I of 1816.
	XIV	Gánja and Bhang, Madras ...	Rep., VIII of 1868.
	XV	Repeal of Bombay Regulation XII. 1827, in part	Rep., VIII of 1868.

Year.	Number.	Subject-matter.	How disposed of.
1838 ...	XVI	Suits, Bombay ...	Rep. in part, XIV of 1870; XVI of 1874; Bomb. Act II, 1866. Printed, Bombay Code.
	XVII	Appeals from Munsifs, Madras	Rep., X of 1861.
	XVIII	Sureties, Bombay ...	Rep. in part, XVI of 1874. Printed, Bombay Code.
	XIX	Coasting Vessels, Bombay...	Rep. in part, XIV of 1870; XVI of 1874. Printed, Bombay Code.
	XX	Post Office	Rep., XVII of 1864.
	XXI	Silver Coinage	Rep., XIII of 1862.
	XXII	Appeals from Munsifs, Bengal	Rep., XVI of 1874.
	XXIII	Repeal of Madras Regulation IV. 1821, in part ...	Rep., XXIII of 1871.
	XXIV	Bank of Bengal ...	Rep., VIII of 1868.
	XXV	Wills made between 1st February 1839 and 1st January 1866	Rep. (except as to certain Wills), VIII of 1868. Printed, General Acts, pp. 2—9.
	XXVI	Principal Sadr Amíns, Madras	Rep., XVII of 1862.
	XXVII	Judiciary, Bengal ...	Rep., X of 1861.
	XXVIII	Perjury, Supreme Courts ...	Rep., VIII of 1868.
	XXIX	Salt, Lower Provinces ...	Rep. locally, Bengal Act VII of 1864; „ in part, XIV of 1870; XVI of 1874.
	XXX	Registry of Deeds, Bengal ...	Rep., XVI of 1864.
	XXXI	Criminal Law: Supreme Courts	Rep., X of 1875.
	XXXII	Justices of the Peace, Bengal	Rep., XII of 1873.
1839 ...	I	Sale of Distresses, Bengal ...	Rep., X of 1859.
	II	Fines by Magistrates ...	Rep., XVII of 1862.
	III	Revenue Courts and Munsifs	Rep., VIII of 1868.
	IV	Theft of Trees, &c., Straits Settlements	Omitted.
	V	Search-warrants, Straits Settlements	Rep., XIV of 1851.
	VI	Bank of Bengal ...	Rep., IV of 1862.
	VII	Tahsíldárs, Madras ...	Rep. in part, XIV of 1870; XII of 1873. Printed, Madras Code.
	VIII	Jágír of Chinchni, Bombay...	Rep., XV of 1874.

Year.	Number.	Subject-matter.	How disposed of.
1839 ...	IX	Pauper Suits, Bengal ...	Rep., XVI of 1874.
	X	War against Allied States, Straits Settlements ...	Omitted.
	XI	Appeals to Queen in Council	Rep., VIII of 1868.
	XII	Assessments and Taxes, Straits Settlements	Rep., IX of 1848.
	XIII	Port-dues, Madras ...	Rep., XII of 1875.
	XIV	Emigration	Rep., XIII of 1864.
	XV	Importation of Foreign Sugar, Madras .	Rep., XIX of 1854.
	XVI	Government Rents, Straits Settlements	Omitted.
	XVII	Post Office	Rep., XVII of 1854.
	XVIII	Thugs	Rep., XVII of 1862.
	XIX	Sentences of Imprisonment, Bombay	Rep., XVII of 1862.
	XX	Levy of Hakks, Bombay ...	Rep. in part, XVI of 1874. Printed, Bombay Code.
	XXI	Petty Offences, Calcutta ...	Rep., XIII of 1856.
	XXII	Prisoners' Counsel, &c., Supreme Courts	Rep., X of 1875.
	XXIII	Courts Martial ...	Rep., XXIX of 1861.
	XXIV	Ganjam and Vizagapatam	Rep. in part, XIV of 1870; XVI of 1874; Madras Act I of 1865. Printed, Madras Code.
	XXV	Powers of Collectors, Bombay	Rep., VIII of 1868.
	XXVI	Public Officers, Bengal ...	Rep., XXXVII of 1850.
	XXVII	Execution of Decrees of Judge of 24-Parganas ...	Printed, Lower Provinces Code.
	XXVIII	Buildings in Bombay and Colaba	Rep , VI of 1857.
	XXIX	Dower	Rep. (except as to certain marriages), VIII of 1868. Printed, General Acts, pp. 9—11.
	XXX	Inheritance	Rep. (except as to certain descents), VIII of 1868. Printed, General Acts, pp. 12—15.
	XXXI	Injuries to the Coin ...	Rep., VIII of 1868.
	XXXII	Interest	Printed, General Acts, p. 15.
1840 ...	I	Faujdárí Adálat, Madras ...	Rep., XVII of 1862.
	II	Courts Martial	Rep., XXIX of 1861.
	III	Bank of Bombay ...	Rep., Bombay Act X of 1863.

Year.	Number.	Subject-matter.	How disposed of.
1840 ...	IV	Affrays, Bengal ...	Rep., XVII of 1862.
	V	Oaths	Rep., X of 1873.
	VI	Bills of Exchange ...	Rep. in part, XVI of 1874. Printed, General Acts, pp. 16, 17.
	VII	Deputy and Assistant Registrars to Sadr Courts, Bengal	Rep., VIII of 1868.
	VIII	Panchâyats, Madras ...	Printed, Madras Code.
	IX	Arbitrations, Damages, Witnesses: Supreme Courts...	Rep. in part, VIII of 1868. Printed, General Acts, p. 17.
	X	Temple of Jagannáth ...	Rep. in part, VIII of 1868; XVI of 1874. Printed, Lower Provinces Code.
	XI	Criminal Law, Bombay ...	Rep., Bombay Act IV of 1865.
	XII	Extending Act XII of 1839, Straits Settlements ...	Rep., IX of 1848.
	XIII	Factors	Rep., IX of 1872.
	XIV	Extending 9 Geo. IV, c. 14	Rep., IX of 1872.
	XV	Agents of Foreign Sovereigns, Bombay . .	Rep. in part, XVI of 1874. Printed, Bombay Code.
	XVI	Transported Convicts ...	Rep., V of 1871.
	XVII	Salt Laws, Madras ...	Rep. locally, Madras Act VI of 1871; in part, XVI of 1874. Printed, Madras Code.
	XVIII	Licenses for Sale of Liquor, Bombay	Rep., XIII of 1856.
	XIX	Appeals by Paupers ..	Rep., XVI of 1874.
	XX	Revenue-sales	Rep., VIII of 1868.
	XXI	Suits under Ben. Reg. XLIX of 1793	Rep., VIII of 1868.
	XXII	Vagrants, Presidency Towns	Rep., XIII of 1856.
	XXIII	Execution in Presidency Towns of Mofussil Process	Rep. in part, XVI of 1874. Rep. in part, locally, Bengal Act II of 1864. Rep. in part, locally, Madras Act V of 1869. Printed, General Acts, pp. 17—20.
	XXIV	Municipal Rates, Calcutta ...	Rep., XVI of 1847.
	XXV	Ábkárí, Bengal... ...	Rep., XXI of 1856.
1841 ...	I	Pattídárí Estates, Bengal .	Rep., XVI of 1874.
	II	Gánja and Bhang, Bombay...	Rep., XXXIV of 1857.
	III	Petty Offences, Bombay Town	Rep., XIII of 1856.
	IV	Public Conveyances, Bombay Town	Rep., Bombay Act VI of 1863, s. 33.

Year.	Number.	Subject-matter.	How disposed of.
1841	V	Trials for State Offences	Rep., X of 1872.
	VI	Import of Rum, Bengal .	Rep, VI of 1863.
	VII	Evidence	Rep., XVI of 1874.
	VIII	Interpleader ...	Rep. in part, XVI of 1874. Printed, General Acts, pp. 20—22.
	IX	Ábkárí, Bengal...	Rep., XXI of 1856.
	X	Registry of Ships	Rep. in part, XI of 1850; XVI of 1874. Amended, XI of 1850, IV of 1875, section 30. Printed, General Acts, pp. 22—35.
	XI	Military Courts of Requests	Rep. in part, XIV of 1870; IX of 1871; XVI of 1874. Rep. locally, Madras Act I of 1866, section 9. Bombay Act III of 1867, section 2. Extended, XII of 1842. Suspended in certain cantonments, III of 1859, s. 2. Section 17 may be suspended, XII of 1868. Printed, General Acts, pp. 36—40.
	XII	Sales of Land for Revenue-arrears ..	Rep. in part, I of 1845; XIV of 1870; XVI of 1874. Rep. locally, XIX of 1873. Printed, Lower Provinces Code.
	XIII	Explaining Act XXV of 1836	Rep., XII of 1873.
	XIV	Markets, Bombay Town ..	Rep., XIV of 1856.
	XV	Repealing Bengal Regulation IX. 1819, s. 7 ...	Rep., VIII of 1868.
	XVI	Oaths of Justices of the Peace	Rep., II of 1869.
	XVII	Appeals, Bengal ...	Rep., XII of 1873.
	XVIII	Export of Military Stores	Rep. in part, XIII of 1852, s. 37; XVI of 1874. Printed, General Acts, p. 40.
	XIX	Wrongful Possession in case of Successions ...	Rep. in part, VIII of 1855, s. 13; XVI of 1874. Printed, General Acts, pp. 40—45.

Year.	Number.	Subject matter.	How disposed of.
1841 ...	XX	Collection of Debts on Successions	Rep., XXVII of 1860.
	XXI	Local Nuisances ...	Rep., XVII of 1862.
	XXII	Municipal Rates, Madras Town	Rep., XXVI of 1856.
	XXIII	Import of Rum, Madras ...	Rep., VI of 1863.
	XXIV	Illusory Appointments: Infants' Property ...	Rep. in part, XXVII of 1866; VIII of 1868; XVI of 1874. Printed, General Acts, pp. 45—47.
	XXV	Contempts in Equity ...	Rep., VIII of 1868.
	XXVI	Extending 3 & 4 Wm. IV, c. 42 ...	Rep. in part, VIII of 1868; XVI of 1874. Printed, General Acts, pp. 47—49.
	XXVII	Unclaimed Dividends on Insolvents' Estates ...	Rep. in part, VIII of 1868; XVI of 1874. Printed, General Acts, pp. 49, 50.
	XXVIII	Extending Act XXIII of 1839 to Camp-followers ...	Rep., XXIX of 1861.
	XXIX	Dismissal of Suits and Appeals, Bengal and Madras...	Rep., XII of 1873.
	XXX	Obstructions to Justice ...	Rep., VIII of 1868.
	XXXI	Criminal Appeals, Bengal ...	Rep., XVII of 1862.
1842...	I	Sale of Opium, Calcutta ...	Rep., XI of 1849.
	II	Governor General ...	Rep., VIII of 1868.
	III	Extending Act XXI of 1839	Rep., XIII of 1856.
	IV	Boat Regulations, Madras Roads ...	Rep. in part, XVI of 1874. Amended, Madras Act IV of 1869. Printed, Madras Code.
	V	Sale of Spirits, Bombay Town	Rep., Bombay Act IX of 1867.
	VI	Nipáni Jágír	Rep., XV of 1874.
	VII	Repealing Ben. Regs. XIX. 1797, s. 5, and IV. 1803...	Rep., VIII of 1868.
	VIII	Sadr Courts ...	Rep., XVII of 1862.
	IX	Extending 4 & 5 Vic, c. 21...	Printed, General Acts, pp. 50—52.
	X	Municipalities, Bengal ...	Rep., XXVI of 1850.
	XI	Foreign Sugar	Rep., XIX of 1854.
	XII	Military Bázárs ...	Rep. in part, XVI of 1874. Rep. locally, Bombay Act III of 1867, s. 2. Extended, XIV of 1855. Printed, General Acts, p. 52.

Year.	Number.	Subject-matter.	How disposed of.
1842	XIII	Revenue, Bombay ...	Rep. in part, XVI of 1874. Printed, Bombay Code.
	XIV	Nuisances, Bombay Town	Rep., XIV of 1856.
	XV	Emigration ...	Rep, XIII of 1864.
	XVI	Leases, Bengal ...	Rep., VIII of 1868.
	XVII	Revenue Commissioners, Bombay	Rep. in part, XIV of 1870. Printed, Bombay Code.
1843 ...	XVIII	Revenue, Bombay ...	Rep, XVII of 1862.
	I	Registration of Instruments	Rep., XVI of 1864. Printed, General Acts, Appendix.
	II	Appeals to Sadr Díwání Adálat, Bengal	Rep., XVI of 1874.
	III	Special Appeals	Rep, XVI of 1853.
	IV	Appeals from Convictions	Rep., XVII of 1862.
	V	Slavery	Rep in part, XVI of 1874. Printed, General Acts, p. 53.
	VI	Amíns and Munsifs, Bengal	Rep., XII of 1873.
	VII	Courts, Madras ...	Rep. in part, III of 1873; „ the rest, XII of 1873.
	VIII	Provincial Courts of Appeal, Madras	Rep., VIII of 1868.
	IX	Bank of Madras ...	Rep., Madras Act V of 1862.
	X	Karnúl and Banganapalle	Rep., XXIII of 1858.
	XI	Hereditary Officers, Bombay	Rep., Bombay Act III of 1874.
	XII	Judicial Language .	Rep., XVI of 1874.
	XIII	Conduct of Public Officers, Madras	Rep., XXXVII of 1850.
	XIV	Inland Customs, N. W. Provinces	Rep., VIII of 1875.
	XV	Deputy Magistrates, Deputy Collectors	Rep., XII of 1873.
	XVI	Repeal, in part, of Bengal Regulations IX of 1808 and XVI of 1810	Rep., VIII of 1868.
	XVII	Official Trustee	Rep., XVII of 1864, except as to trusts vested under it. Printed, General Acts, Appendix.
	XVIII	Thugs and Dacoits	Rep., VIII of 1863.
	XIX	Registration of certain Deeds	Rep., XVI of 1864. Printed, General Acts, Appendix.
	XX	Governor-General	Rep., VIII of 1868.
	XXI	Emigration	Rep., XIII of 1864.
	XXII	Repeal, in part, of Bengal Regulation III of 1793	Rep., VIII of 1868.

Year.	Number.	Subject-matter.	How disposed of.
1843	XXIII	Zila Courts in Ceded Provinces	Rep., VIII of 1868.
	XXIV	Dacoity	Rep., XVII of 1862.
	XXV	Applying 5 & 6 Vic., c. 47, s. 11	Rep., XII of 1873.
1844	I	Nawáb of Carnatic ...	Rep., VIII of 1868.
	II	Appeals to Queen in Council..	Rep., VI of 1874.
	III	Corporal Punishment ...	Rep., XVII of 1862.
	IV	Repeal of Ben. Reg. IX of 1808 ..	Rep., VIII of 1868.
	V	Private Lotteries ...	Rep., XXVII of 1870.
	VI	Transit and other duties: Salt: Madras	Rep. in part,— VII of 1859; XXIII of 1859; VI of 1863; XIX of 1866; VIII of 1868; XI of 1869; XXIV of 1869; XIII of 1871; XVI of 1874. Printed, Madras Code.
	VII	Competence of Witnesses ...	Rep., VIII of 1868.
	VIII	Native Military Convicts ...	Rep., VII of 1850.
	IX	Principal Sadr Amíns and Sadr Amíns	Rep., XII of 1873.
	X	Sentences for Murder ...	Rep., VIII of 1868.
	XI	Supreme Court, Fort William	Rep., XIV of 1870.
	XII	Indian Navy	Rep., VIII of 1868.
	XIII	Trisuli Pice ...	Rep., VIII of 1868.
	XIV	Transportation for Life ...	Rep., XVII of 1862.
	XV	Customs-duties	Rep., IX of 1845, s. 3.
	XVI	Salt-duties, Bombay ...	Rep. in part,— VII of 1861; XIV of 1870; XVI of 1874; Bombay Act VII of 1873. Printed, Bombay Code.
	XVII	Colaba	Rep., VIII of 1853.
	XVIII	Jails, Bengal	Rep., XXVI of 1870.
	XIX	Town-duties, Bombay ...	Printed, Bombay Code.
	XX	Factors	Rep., IX of 1872.
	XXI	Emigration	Rep., XIII of 1864.
	XXII	Copper Coinage ...	Rep., XIII of 1862.

Year.	Number.	Subject-matter.	How disposed of.
1845	I	Sales of Land for Revenue-arrears, Bengal ...	Rep., as to Lower Provinces, XI of 1859; Panjáb, XII of 1873; N. W. Provinces, XIX of 1873. Printed, Oudh Code.
	II	Adultery, Bombay ...	Rep., XVII of 1862.
	III	Security for Costs in Appeals, Bengal	Rep., XII of 1873.
	IV	Registration of Deeds ..	Rep., XVI of 1864. Printed, Bengal Code, Appendix.
	V	Native Law Officer ...	Rep., XI of 1864.
	VI	Commissions of the Peace ...	Rep., II of 1869.
	VII	Canals, N. W. Provinces ...	Rep., VIII of 1873.
	VIII	Security for Costs in Appeals, Bombay	Rep., XVI of 1874.
	IX	Import-duties	Rep., VIII of 1868.
	X	Warrants on Failure to serve Summons	Rep., XVII of 1862.
	XI	Municipal Funds, Bombay Town	Rep., XXV of 1858.
	XII	Assistant Registrar, Sadr Díwání and Sadr Faujdárí Adálat, Bombay ...	Rep., VIII of 1868.
	XIII	Attornies, Supreme Court, Bombay	Rep., VIII of 1868.
	XIV	Názirs in Munsifs' Courts, Bengal	Rep., XII of 1873.
	XV	Native Soldiers... ...	Rep., X of 1872.
	XVI	Re-admission of Appeals, Bengal and Madras ...	Rep., XII of 1873.
	XVII	Witnesses in Munsifs' Courts, Bengal	Rep., XII of 1873.
	XVIII	Offences by Convicts ...	Rep., XVII of 1862.
	XIX	Assam Company ...	Rep., XII of 1873.
	XX	Native Army, Articles of War	Rep., XIX of 1847.
	XXI	Meriah Sacrifices ...	Rep., XVI of 1874.
	XXII	Governor General ...	Rep., VIII of 1868.
	XXIII	Union Bank	Rep., VIII of 1868.
	XXIV	Pilot Court, Bengal ...	Rep., XII of 1859.
	XXV	Emigrant Ships, Madras ...	Rep., XIII of 1864.
	XXVI	Spirit Licenses, Calcutta ...	Rep., XI of 1849.
	XXVII	Assistant Magistrates, Bengal	Rep., XVII of 1862.
	XXVIII	Supreme Court, Madras ...	Rep., VIII of 1868.

Year.	Number.	Subject-matter.	How disposed of.
1845 ...	XXIX	Joint Zila and Sessions Judges	Rep., X of 1872.
	XXX	Fines in Compensation, Madras	Rep., XVII of 1862.
	XXXI	Pensions of Soldiers, Bombay	Rep., VI of 1849.
	XXXII	Distillery Licenses, Madras...	Rep., Madras Act III of 1864.
1846 ..	I	Pleaders	Rep. locally, XX of 1865, s. 3. Printed, General Acts, pp. 53—55.
	II	Unscrewed Cotton .	Rep., I of 1852.
	III	Boundary-marks, Bombay	Rep. in part, Bombay Act I of 1865, s. 50; XVI of 1874. Printed, Bombay Code.
	IV	Execution-sales of Land, Bengal	Rep., XII of 1873.
	V	Surat Police	Rep., VIII of 1868.
	VI	Bhatti Territory, N.-W. Provinces	Rep., IV of 1872.
	VII	Diet-money for Witnesses ...	Rep., XVII of 1862.
	VIII	Revenue Settlement, N.-W. Provinces ...	Rep. in part,— XIV of 1870; XIX of 1873. Printed, N.-W. Provinces Code.
	IX	Boats in Harbours, Madras ...	Printed, Madras Code.
	X	Distress for Rent, Bengal ...	Rep., X of 1859.
	XI	Khándesh and Ahmadnagar	Rep. (except as to Scheduled Districts), XIV of 1874. Rep. in part, XVI of 1874. Printed, Bombay Code.
1847	I	Boundaries, N.-W. Provinces	Rep., XIX of 1873.
	II	Explaining Act V of 1840 ...	Rep., VIII of 1868.
	III	Police, Straits Settlements ...	Rep., XIII of 1856.
	IV	Military Magistrates ..	Rep., VIII of 1868.
	V	Execution of Sentences of Courts in Native States . .	Rep., VIII of 1863.
	VI	Copper Currency, Straits Settlements... ...	Rep. in part, XVII of 1855. Omitted.
	VII	Distresses, Calcutta ...	Rep., I of 1875.
	VIII	Emigration from Madras Port	Rep., XIII of 1864.
	IX	Assessment of new lands, Lower Provinces ...	Rep. in part, XIV of 1870; XVI of 1874; Bengal Act IV of 1868. Printed, Lower Provinces Code.

Year.	Number.	Subject-matter.	How disposed of.
1847 ...	X	Sentences to Imprisonment for Life ...	Rep., XVII of 1862.
	XI	Convicts from Hong-Kong	Rep., VIII of 1868.
	XII	Fines on Munsifs and Sadr Amíns .	Rep., VIII of 1868.
	XIII	Emigration to Ceylon ..	Rep., XIII of 1864.
	XIV	Transcription of Plaints, Bengal	Rep., VIII of 1868.
	XV	Survey of Lands in Calcutta	Rep., VIII of 1868.
	XVI	Commissioners for Improvement of Calcutta . .	Rep., X of 1852.
	XVII	Defects in Civil Procedure ..	Rep., XII of 1873.
	XVIII	Registration of Deeds, Bengal	Rep., XVI of 1864.
	XIX	Articles of War, Native Army	Rep., XXIX of 1861.
	XX	Copyright	Rep. in part,— XVII of 1862; XIV of 1870; IX of 1871; XVI of 1874. Printed, General Acts, pp. 55—62.
	XXI	Supreme Court, Bombay .	Rep., VIII of 1868.
	XXII	Municipal Commissioners, Calcutta	Rep., XIV of 1856.
	XXIII	Transportation	Rep., VIII of 1868.
1848 ...	I	Forgery, Bengal ..	Rep., XVII of 1862.
	II	Municipal Commissioners, Calcutta	Rep., XII of 1852.
	III	Meaning of 'Thugs' and 'Thuggee' ...	Rep., XVII of 1862.
	IV	Coroners' Juries ...	Rep., IV of 1871.
	V	Penal Recognizances .	Rep., XVII of 1862.
	VI	Foreign Bottoms ...	Rep., VIII of 1868.
	VII	Amending Act VI of 1848...	Rep., XII of 1873.
	VIII	Amending Bengal Regulation V of 1812	Rep., X of 1859.
	IX	Municipal Rates, Straits Settlements ...	Rep., XXVII of 1856.
	X	Mandví, Bombay . .	Rep. in part, XV of 1874. Printed, Bombay Code.
	XI	Wandering Gangs of Thieves	Rep., XVII of 1862.
	XII	Commissioners for Recovery of Small Debts, Calcutta .	Rep., VIII of 1868.
	XIII	Limitation, Bengal ...	Rep., VIII of 1868.

Year.	Number.	Subject-matter.	How disposed of.
1848 ...	XIV	Commissions to take Affidavits, Supreme Court, Calcutta ...	Rep. in part, XVI of 1874. Printed, Lower Provinces Code.
	XV	Officers of Supreme Courts	Printed, General Acts, pp. 62, 63.
	XVI	Salt, N. W. Provinces ...	Rep., XIV of 1870.
	XVII	Stamp-duties, Madras ...	Rep., VII of 1870.
	XVIII	Nawáb of Surat	Rep. in part, XIV of 1870. Printed, Private & Personal Acts.
	XIX	Criminal Sentences, Bengal and Madras	Rep., XVII of 1862.
	XX	Attendance before Collectors	Printed, Lower Provinces Code.
	XXI	Wagers	Rep., IX of 1872.
	XXII	Indictments for Forgery ...	Rep., VIII of 1868.
	XXIII	Amending Act XXV of 1840	Rep., XXI of 1856.
	XXIV	Governor General ...	Rep., VIII of 1868.
	XXV	Banganapalle, Madras ...	Rep., VIII of 1868.
	XXVI	Coroners' Juries, Straits Settlements	Omitted.
	XXVII	Indian Navy	Rep., VIII of 1868.
1849 ...	I	Offences in Foreign States ..	Rep., XI of 1872.
	II	Branding Convicts ...	Rep., VIII of 1868.
	III	Union Bank, Calcutta ...	Rep., VIII of 1868.
	IV	Criminal Lunatics ...	Rep., X of 1875.
	V	Customs-duties, Straits Settlements	Rep., VIII of 1868.
	VI	Pensions	Rep., XXIII of 1871.
	VII	Administrator General .	Rep. (except as to letters of administration granted before 1st March 1855), VIII of 1855, s. 56. Printed, General Acts, Appendix.
	VIII	Police Magistrates, Madras Town	Rep., XIII of 1856.
	IX	Police Magistrates, Madras ..	Rep., XVI of 1874.
	X	Commissioner of Revenue, Madras	Printed, Madras Code.
	XI	Ábkárí, Calcutta ...	Rep. in part,— XIII of 1856; XIV of 1870. Printed, Lower Provinces Code.
	XII	Sadr Adálat, Bombay ...	Rep., VIII of 1868.
	XIII	Smuggling of Salt, Calcutta	Rep., XII of 1873.
	XIV	Tampering with Army or Navy	Rep., XVII of 1862.
	XV	Repealing Bombay Regulation XVIII. 1827, s. 6, cl. 1	Rep., VIII of 1868.

Year.	Number.	Subject-matter.	How disposed of.
1850 ...	I	Title to certain Lands, Calcutta	Rep., VI of 1857.
	II	Extending Act VII of 1849 to Madras and Bombay ...	Rep. (except as to letters of administration granted before 1st March 1855), VIII of 1855, s. 56.
	III	Sadr Amíns and District Munsifs, Madras ...	Rep., X of 1861.
	IV	Appeals to Sadr Court, Bengal	Rep., XV of 1853.
	V	Coasting Trade... ...	Printed, General Acts, p. 63.
	VI	Military Offences ...	Rep., XXIX of 1861.
	VII	Removal of Prisoners ...	Rep., XVII of 1862.
	VIII	Appeals	Rep., XII of 1873.
	IX	Small Cause Courts, Presidency Towns ...	Rep. in part,— VIII of 1868; XIV of 1870; XVI of 1874; I of 1875. Printed, General Acts, pp. 64—87.
	X	Aden	Rep., XII of 1873.
	XI	Amending Act X of 1841	Rep. in part, XIV of 1870. Printed, General Acts, pp. 87, 88.
	XII	Public Accountants ...	Rep. in part, XIV of 1870. Printed, General Acts, pp. 88, 89.
	XIII	Breaches of Trust ...	Rep., XVII of 1862.
	XIV	Police Magistrates, Straits Settlements ...	Rep., XIII of 1856.
	XV	Munsifs' Courts, Bengal ...	Rep., XII of 1873.
	XVI	Fines	Rep., XVII of 1862.
	XVII	Taking Land in Bombay and Colaba	Rep., VI of 1857.
	XVIII	Protection of Judicial Officers	Printed, General Acts, p. 89.
	XIX	Binding Apprentices ...	Rep. in part,— XIV of 1870; XVI of 1874. Printed, General Acts, pp. 89—96.
	XX	Tributary Mahâls, Katák ...	Printed, Lower Provinces Code.
	XXI	Non-forfeiture of Rights for Loss of Caste... ...	Printed, General Acts, p. 96.
	XXII	Governor General ...	Rep., VIII of 1868.
	XXIII	Land Revenue, Calcutta ...	Printed, Lower Provinces Code.
	XXIV	Duty on Tobacco, Bombay Town	Rep., IV of 1857.
	XXV	Forfeiture of Deposits on Land-sales	Rep. in part,— X of 1861; XIV of 1870. Printed, Lower Provinces Code.

Year.	Number.	Subject-matter.	How disposed of.
1850 ...	XXVI	Improvements in Towns	Rep. locally,— Bengal Act III of 1864, s. 5; Madras Act X of 1865, s. 3; Bengal Act VI of 1868, s. 3; Bombay Act VI of 1873; VI of 1868, s. 5; IV of 1873. Rep. in part, XIV of 1870.
	XXVII	Registry of Merchant Seamen	Rep., I of 1859.
	XXVIII	Merchant Seamen ...	Rep., I of 1859.
	XXIX	Amending Act XXXI of 1838	Rep., VIII of 1868.
	XXX	Pleaders: Appeals ...	Rep., VIII of 1868.
	XXXI	Salt Revenue, Bombay ...	Rep., Bombay Act VII of 1873.
	XXXII	Repealing Act XV of 1836...	Rep., VIII of 1868.
	XXXIII	Sale of Patní Tenures, Bengal	Rep. in part,— XIV of 1870; XVI of 1874. Printed, Lower Provinces Code.
	XXXIV	State Prisoners... ...	Printed, General Acts, p. 97.
	XXXV	Ferries, Bombay ..	Rep., Bombay Act II of 1868.
	XXXVI	Amending Articles of War for Native Army ...	Rep., XXIX of 1861.
	XXXVII	Inquiries into Behaviour of Public Servants ...	Rep. in part, XIV of 1870; XVI of 1874; in part, locally, XVI of 1868. Printed, General Acts, pp. 97—101.
	XXXVIII	Prisoners' Counsel ...	Rep., XVII of 1862.
	XXXIX	Municipal Commissioners, Calcutta	Rep., VIII of 1868.
	XL	Pawnbrokers, Straits Settlements	Rep., XIII of 1856.
	XLI	Landing Decrepit Beggars, Straits Settlements ...	Omitted.
	XLII	Public Works, Bengal ...	Rep., VI of 1857.
	XLIII	Joint Stock Companies ...	Rep., X of 1866, s. 219.
	XLIV	Board of Revenue, Lower Provinces	Rep. in part, XIV of 1870. Printed, Lower Provinces Code.
	XLV	Coroners	Rep., IV of 1871.
1851 ...	I	Fines under Act XXIV of 1845	Rep., XII of 1859.
	II	Amending Bengal Regulation XIII of 1810 ...	Rep., VIII of 1868.
	III	Salt-smuggling ..	Rep., VIII of 1868.

Year.	Number.	Subject-matter.	How disposed of.
1851 ...	IV	Deputy and Assistant Magistrates, Bombay ...	Rep., XVII of 1862.
	V	Turton's Insolvency .	Rep , VIII of 1868.
	VI	Foras Land, Bombay	Rep., XIV of 1870.
	VII	Execution of Decrees, Bombay	Rep., X of 1861.
	VIII	Tolls on Roads and Bridges	Rep. in part, XIV of 1870; in part, locally, XV of 1864. Printed, General Acts, pp. 102—104.
	IX	Gambling, Bombay Town ...	Rep., XIII of 1856.
	X	Administration Certificates	Rep., XXVII of 1860.
	XI	Registration of Deeds, Bengal	Rep., XVI of 1864.
	XII	Land-revenue, Madras Town	Rep. in part, Madras Act VI of 1867. Printed, Madras Code.
	XIII	Amending Act V of 1851 ...	Rep., VIII of 1868.
	XIV	Excise, Straits Settlements ...	Rep., XXX of 1866.
	XV	Cotton-frauds, Bombay ...	Rep., Bombay Act IX of 1863.
	XVI	Receivers of Stolen Goods . .	Rep., XVII of 1862.
1852 ...	I	Customs, Bombay ...	Rep., XIII of 1871.
	II	Land-customs, Bombay ..	Rep., XXIX of 1857.
	III	Spirituous Liquors, Bombay	Rep. in part, XVI of 1874. Printed, Bombay Code.
	IV	Emigration	Rep., XIII of 1864.
	V	Marriage by Registrars ...	Rep., XV of 1872.
	VI	Horsburgh Light-house ...	Rep., XIII of 1854.
	VII	Offences against Salt-laws, Madras ...	Rep. locally, Madras Act VI of 1871; in part, XVI of 1874. Printed, Madras Code.
	VIII	Sheriffs' Fees	Printed, General Acts, pp. 104—106.
	IX	Repealing Bengal Regulation I of 1832 . . .	Rep., VIII of 1868.
	X	Municipal Commissioners, Calcutta . . .	Rep., XXVIII of 1856.
	XI	Titles to Rent-free Estates, Bombay ...	Rep. in part, XVI of 1874. Printed, Bombay Code.
	XII	Municipal Commissioners, Calcutta ...	Rep. (except s. 50),—XIV of 1856; as to s. 50, XXVIII of 1856.
	XIII	Calcutta Police... ..	Rep., XIII of 1856.
	XIV	Extending certain Acts to Straits Settlements . .	Omitted.
	XV	Evidence	Rep., I of 1872.

Year.	Number.	Subject-matter.	How disposed of.
1852 ...	XVI	Criminal Procedure, Supreme Courts	Rep., X of 1875.
	XVII	Special Cases, Supreme Courts	Printed, General Acts, pp. 106—115.
	XVIII	Pleaders, Lower Provinces...	Rep., XX of 1865.
	XIX	Ábkárí, Madras Town ..	Rep. in part,— XIII of 1856; XIV of 1870. Printed, Madras Code.
	XX	Acquisition of Land for Public Purposes, Madras ...	Rep., VI of 1857.
	XXI	Deputy Collectors, Bombay	Rep. in part,— XII of 1873; Bom. Act I of 1868. Printed, Bombay Code.
	XXII	Summary Suits for Arrears of Rent	Rep., VIII of 1868.
	XXIII	Fines, Madras and Bombay...	Rep., XVI of 1874.
	XXIV	Crimping	Rep., XIII of 1864.
	XXV	Execution of Decrees on Appeal	Rep., VI of 1874.
	XXVI	Sadr Amíns and Munsifs ...	Rep., XII of 1873.
	XXVII	Heads of Villages, Bombay...	Rep., Bombay Act VIII of 1867.
	XXVIII	Police, Bombay ...	Rep., VIII of 1868.
	XXIX	Circuits of Judicial Commissioners, Bombay ...	Rep., XII of 1873.
	XXX	Naturalization of Aliens	Rep. in part, XVI of 1874. Printed, General Acts, pp. 115—117.
	XXXI	Repealing Bengal Regulation XX of 1817, s. 16, cl. 17 ...	Rep., VIII of 1868.
	XXXII	Prosecution of certain Officers	Rep., XVII of 1862.
	XXXIII	Enforcement of Judgments	Rep. in part, X of 1861; VII of 1870. Printed, General Acts, pp. 118—120.
	XXXIV	Gambling, Straits Settlements	Rep., XIII of 1856.
	XXXV	Local Taxation, Akyab and Kyook Phyoo ...	Printed, Burma Code.
1853 ...	I	Corporal Punishment, Madras and Bombay ...	Rep., XVII of 1862.
	II	Public Charges on Landholders	Printed, General Acts, pp. 120, 121.
	III	Great Indian Peninsula Railway ...	Rep., XVIII of 1854, s. 39.

Year.	Number.	Subject-matter.	How disposed of.
1853 ..	IV	Tobacco Monopoly, Madras .	Rep., VIII of 1868.
	V	Amending Act IV of 1839, Straits Settlements ...	Omitted.
	VI	Summary Suits for Arrears of Rent, &c. ...	Rep. in part, XII of 1873; Beng. Act VIII of 1865. Printed, Lower Provinces Code.
	VII	Jurisdiction of Magistrates .	Rep., X of 1872.
	VIII	Colaba	Rep. in part, XV of 1874. Printed, Bombay Code.
	IX	Amending Act VI of 1853 ...	Rep., VIII of 1868.
	X	Amending Act XXII of 1836	Rep., XII of 1873.
	XI	Harbour of Bombay .	Rep. in part, XXII of 1855, s. 2; XIV of 1870. Printed, Bombay Code.
	XII	Great Indian Peninsula Railway	Rep., XVIII of 1854, s. 39.
	XIII	Vishalghur	Rep., XV of 1874.
	XIV	Indian Navy ...	Rep., VIII of 1868.
	XV	Regular Appeals, Bengal ...	Rep., XII of 1873.
	XVI	Special Appeals ...	Rep , XII of 1873.
	XVII	Imrit Rao's Jágír ...	Rep., XV of 1874.
	XVIII	Sale of Spirits in Cantonments ...	Rep. in part, XVI of 1874; locally, XXII of 1864; Madras Act I of 1866, s. 41; Bomb. Act III of 1867, s. 2. Printed, General Acts, pp. 121—124.
	XIX	Evidence, Bengal.	Rep. in part, X of 1855; X of 1861; 1 of 1872. Printed, Lower Provinces Code; „ N. W. Provinces Code.
	XX	Pleaders ...	Rep. in part, XIV of 1870; locally, XX of 1865. Printed, General Acts, p. 124.
	XXI	Governor General ..	Rep., VIII of 1868.
1854 ...	I	Acquisition of Land, Madras Town	Rep., VI of 1857.
	II	Assessor to Court of Petty Sessions, Bombay Town ...	Rep., VIII of 1868.
	III	Amending Native Articles of War	Rep., XXIX of 1861.

Year.	Number.	Subject-matter.	How disposed of.
1854 ...	IV	Cantonment Bázárs, Bombay	Rep. locally, Bombay Act III of 1867, s. 2. Printed, Bombay Code.
	V	Bengal Bonded Warehouse Association	Rep. in part, XIV of 1870. Printed, Private & Personal Acts.
	VI	Supreme Courts, Equity Procedure	Rep., VIII of 1868.
	VII	Fugitive Foreign Offenders ..	Rep., XI of 1872.
	VIII	Certificates of Administration	Rep., XXVII of 1860.
	IX	Civil Appeals	Rep., XII of 1873.
	X	Assistant and Deputy Magistrates	Rep., X of 1872.
	XI	Copper Coinage ...	Rep., XIII of 1862.
	XII	District Munsifs, Madras ...	Rep., XVII of 1862.
	XIII	Lighthouses, Straits Settlements	Rep. in part, XIV of 1870.
	XIV	Assam Tea Company ...	Rep., IV of 1855, s. 14.
	XV	Borneo Commission ...	Rep., VIII of 1868.
	XVI	Police, N.-W. Provinces ...	Rep. in part, XIV of 1870. Printed, N.-W. Provinces Code.
	XVII	Post Office ...	Rep., XIV of 1866, s. 3.
	XVIII	Railways	Rep. in part, XIV of 1870; XXV of 1871; XVI of 1874. Printed, General Acts, pp. 125—135.
	XIX	Foreign Sugar ...	Rep , VIII of 1868.
	XX	Agent to Governor General, Rámghar, Jungle Mahále, and Midnápur ...	Printed, Lower Provinces Code.
	XXI	Banks of Bengal, Madras and Bombay	Rep. locally, IV of 1862; Mad. Act V of 1862; Bom. Act X of 1863.
	XXII	British Subjects	Rep., VIII of 1868.
	XXIII	Outrages in Malabar	Rep., XX of 1859.
	XXIV	War-knives in Malabar ...	Rep. in part, XIV of 1870. Printed, Madras Code.
	XXV	Mofussil Treasury Warrants...	Rep., VIII of 1868.
	XXVI	Court of Wards, Bengal ...	Rep. locally, XIX of 1873; Bengal Act IV of 1870, s. 86. Printed, Panjáb Code; „ Oudh Code.

Year.	Number.	Subject-matter.	How disposed of.
1854 ...	XXVII	Názim of Bengal	Rep. in part, XIV of 1870. Printed, Private & Personal Acts.
	XXVIII	Municipal Commissioners, Calcutta	Rep., XXVIII of 1856.
	XXIX	Exportation of Saltpetre ...	Rep., VIII of 1868.
	XXX	Customs-duties, British Burma ...	Rep. in part, VII of 1859; XIV of 1870; XIII of 1871; XIII of 1873. Printed, British Burma Code.
	XXXI	Real Actions: Conveyance of Land ...	Rep. in part, XIV of 1870; XVI of 1874. Printed, General Acts, pp. 135—139.
	XXXII	Torture, Madras ...	Rep., VIII of 1868.
	XXXIII	Language of Judicial Decisions	Rep., XVI of 1874.
	XXXIV	Electric Telegraphs ...	Rep. (except as to licenses under it), VIII of 1860. Printed, General Acts, Appendix.
1855 ...	I	Governor General ...	Rep., VIII of 1868.
	II	Evidence	Rep., I of 1872.
	III	Indian Navy	Rep., VIII of 1868.
	IV	Assam Company ...	Rep., XI of 1866.
	V	Execution, Supreme Courts	Rep. (except as to Straits Settlements), VIII of 1868.
	VI	Execution, Supreme Courts	Printed, General Acts, pp. 139—144.
	VII	Arrest on Mesne Process, Supreme Courts ...	Rep. (except as to Straits Settlements), VIII of 1868.
	VIII	Administrator General ...	Rep., XXIV of 1867.
	IX	Regular Appeals, Madras ...	Rep., X of 1861.
	X	Witnesses, Madras and Bombay	Rep. in part, X of 1861; XII of 1873. Printed, Madras Code; „ Bombay Code.
	XI	Mesne Profits: Improvements	Printed, General Acts, pp. 144, 145.
	XII	Suits for Wrongs: Executors and Administrators ...	Rep. in part, IX of 1871. Printed, General Acts, pp. 145, 146.
	XIII	Compensation for Loss occasioned by Death ...	Rep. in part, IX of 1871. Printed, General Acts, pp. 146, 147.

Year.	Number.	Subject-matter.	How disposed of.
1855 ...	XIV	Military Bázárs, Madras ...	Rep., XVI of 1874.
	XV	Joint Police Officers, Bombay	Rep., XVII of 1862.
	XVI	Use of Badges, Bombay ...	Rep., XVII of 1862.
	XVII	Copper Currency, Straits Settlements	Omitted.
	XVIII	Pardons and Reprieves ...	Rep., XVI of 1874.
	XIX	District Munsifs, Madras ...	Rep., VIII of 1868.
	XX	Boundary-marks, Madras ...	Rep., XXVIII of 1860.
	XXI	Wards, Madras	Printed, Madras Code.
	XXII	Ports and Port-dues ...	Rep., XII of 1875.
	XXIII	Administration of Mortgaged Estates	Rep. (except as to descents and devises occurring or made before 1866), VIII of 1868. in part, XVI of 1874. Printed, General Acts, pp. 147, 148.
	XXIV	Penal Servitude ...	Rep. in part,— XII of 1867; XIV of 1870; V of 1871; XVI of 1874. Printed, General Acts, pp. 148—150.
	XXV	Sessions at Utakamand ...	Rep., VIII of 1868.
	XXVI	Government Savings Banks...	Rep., V of 1873.
	XXVII	Banks of Bengal, Madras and Bombay ...	Rep. in part, IV of 1862; Madras Act V of 1862; Bombay Act X of 1863.
	XXVIII	Repeal of Usury Laws ...	Rep. in part, XIV of 1870. Printed, General Acts, pp. 150, 151.
	XXIX	Amending Act VI of 1844 ...	Rep., XII of 1873.
	XXX	Repealing Act XXVIII of 1839, s. 7	Rep., VIII of 1868.
	XXXI	Emigration to St. Lucia and Granada	Rep., XIII of 1864.
	XXXII	Embankments, Lower Provinces	Rep. locally, Bengal Act VI of 1873; in part, XIV of 1870; XVI of 1874. Printed, Lower Provinces Code.
	XXXIII	Exportation of Saltpetre ...	Rep., VIII of 1868.

Year.	Number.	Subject-matter.	How disposed of.
1855 ...	XXXIV	Execution of Judgments ...	Rep. (except as to Charter Courts), X of 1861. Printed, General Acts, pp. 151, 152.
	XXXV	Import of Cotton, N. W. Provinces ...	Rep., VIII of 1868.
	XXXVI	Contraband Salt, N. W. Provinces ...	Rep., VIII of 1875.
	XXXVII	Santhál Districts ...	Rep. in part, XIV of 1870, and see XIV of 1874. Printed, Lower Provinces Code.
	XXXVIII	Rebellion in Bírbhúm, &c. ...	Rep., VIII of 1868.
1856 ...	I	Obscene Books and Pictures	Rep., XVII of 1862.
	II	Offences affecting the Public...	Rep., XVII of 1862.
	III	Ábkárí, Calcutta, Madras Town ...	Printed, Lower Provinces Code; „ Madras Code.
	IV	Cattle Killing	Rep., XVII of 1862.
	V	Extending Act XXIII of 1854 ...	Rep., XX of 1859.
	VI	Patents ...	Rep., IX of 1857 (but saved as to acts done under it); XV of 1859, s. 36.
	VII	Water-supply, Bombay Town	Rep., VIII of 1868.
	VIII	Gaols, Madras and Bombay	Rep. locally, Madras Act V of 1869; in part, XIV of 1870. Printed, Bombay Code.
	IX	Bills of Lading ...	Printed, General Acts, pp. 152, 153.
	X	Native Articles of War ...	Rep., XXIX of 1861.
	XI	European Deserters ...	Rep. in part, XIV of 1870; XII of 1873; XVI of 1874. Printed, General Acts, pp. 153—155.
	XII	Civil Court Amíns, Bengal	Rep. in part, X of 1861; XIV of 1870; X of 1873; XII of 1873. Printed, Lower Provinces Code; „ N. W. Provinces Code.

Year.	Number.	Subject-matter.	How disposed of.
1856 ...	XIII	Police, Presidency Towns ...	Rep. locally, Bengal Act IV of 1866, s. 2; Madras Act VIII of 1867, s. 81; in part, XLVIII of 1860; XIV of 1870; XVI of 1874; XII of 1875. Printed, Bombay Code.
	XIV	Conservancy, Presidency Towns	Rep., XVI of 1874.
	XV	Remarriage of Hindú Widows	Printed, General Acts, pp. 156—158.
	XVI	Port-dues	Rep., VIII of 1868.
	XVII	Criminal Process ...	Rep., XVII of 1862.
	XVIII	Collector of Calcutta ...	Rep. in part, XVIII of 1869. Printed, Lower Provinces Code.
	XIX	Emigration	Rep., XVI of 1874.
	XX	Police Chaukídárs, Bengal	Rep. in part, XIV of 1870; X of 1872; Bengal Act VI of 1867, s. 3. locally, Bengal Act VI of 1868, sec. 3. locally, in part, Bengal Act III of 1864, s. 5. Printed, Lower Provinces Code; „ N.-W. Provinces Code.
	XXI	Ábkárí, Bengal... ...	Rep. locally, X of 1871; in part, XXIII of 1860; XIV of 1870; Bengal Act I of 1874. Printed, Lower Provinces Code.
	XXII	Tolls, Kurratíya River ...	Printed, Lower Provinces Code.
	XXIII	Recovery of Revenue-arrears, Madras	Rep., XXXIX of 1858.
	XXIV	Bengal Mariners, &c., Society	Rep., VIII of 1868.
	XXV	Municipal Rates, Presidency Towns	Rep., XVI of 1874.
	XXVI	Municipal Commissioners, Madras Town ...	Rep., Mad. Act IX of 1865.
	XXVII	Municipal Commissioners, Straits Settlements ...	Rep. in part, XVII of 1863.

Year.	Number.	Subject-matter.	How disposed of.
1856 ...	XXVIII	Municipal Commissioners, Calcutta	Rep., Ben. Act VI of 1863.
	XXIX	Oaths by Registrars of Deeds	Rep., XVI of 1864.
1857 ..	I	Native Passenger Vessels	Rep., VIII of 1868.
	II	Calcutta University ...	Printed, General Acts, pp. 158—164.
	III	Cattle-trespass ...	Rep., I of 1871.
	IV	Tobacco, Bombay Town	Rep. in part, XIV of 1870; XVI of 1874. Printed, Bombay Code.
	V	Oriental Gas Gompany ...	Printed, Private & Personal Acts.
	VI	Acquisition of Land for Public Purposes . . .	Rep., X of 1870.
	VII	Uncovenanted Agency, Madras	Rep. in part, XVII of 1862; X of 1873; XII of 1873. Printed, Madras Code.
	VIII	Courts Martial ...	Rep., XXIX of 1861.
	IX	Repealing Act VI of 1856 ...	Rep., VIII of 1868.
	X	Santhál Districts	Rep. in part, XIV of 1870; and see XIV of 1874. Printed, Lower Provinces Code.
	XI	State Offences ...	Rep. in part, XVII of 1862. Printed, General Acts, pp. 164—166.
	XII	Piratical Junks, Straits Settlements ...	Omitted.
	XIII	Opium, Bengal ...	Rep. in part, XIV of 1870. Printed, Lower Provinces Code; „ Oudh Code; „ Central Provinces Code (in part).
	XIV	Military and State Offences ...	Rep., VIII of 1868.
	XV	Printing Presses	Rep., VIII of 1868.
	XVI	Heinous Offences ...	Rep., VIII of 1868.
	XVII	Mutineers and Deserters	Rep., VIII of 1868.
	XVIII	Family, &c., of Nawáb of Carnatic	Rep., VIII of 1868.
	XIX	Joint Stock Companies ...	Rep. (except as to Table B, which is unrepealed as to Companies existing on 1st May 1866), X of 1866. Table B printed, General Acts, Appendix.

Year.	Number.	Subject-matter.	How disposed of.
1857 ...	XX	Amending Act IX of 1850	Rep. locally, Bombay Act VI of 1864. Printed, General Acts, p. 166.
	XXI	Suburbs of Calcutta and Howrah ...	Rep. locally, Bengal Act VIII of 1868; Bengal Act II of 1866, s. 52; in part, XVI of 1874; in part, locally, Bengal Acts I and III of 1864. Printed, Lower Provinces Code.
	XXII	Bombay University ...	Printed, General Acts, pp. 166—172.
	XXIII	Volunteer Corps ...	Rep., XX of 1869.
	XXIV	Port-dues	Rep., VIII of 1868.
	XXV	Forfeitures ...	Rep. in part, V of 1869; IX of 1871. Printed, General Acts, pp. 173—175.
	XXVI	Ferries, Straits Settlements...	Omitted.
	XXVII	Madras University ...	Printed, General Acts, pp. 175—181.
	XXVIII	Arms and Ammunition ...	Rep., VIII of 1868.
	XXIX	Land Customs, Bombay ...	Rep., in part, XXIII of 1859; XI of 1869, s. 2; XIV of 1870; XIII of 1871; XVI of 1874. Printed, Bombay Code.
	XXX	Port-dues, Calcutta ...	Rep., XII of 1875.
	XXXI	Port-dues, Bombay-port ...	Rep., XII of 1875.
	XXXII	Native Articles of War ...	Rep., XXIX of 1861.
	XXXIII	Foreigners	Rep., VIII of 1868.
	XXXIV	Sale of Gánja, Bombay ...	Rep. in part, XIV of 1870. Printed, Bombay Code.
	XXXV	Port-dues, Burmese Ports ...	Rep., XII of 1875.
1858 ...	I	Compulsory Labour, Madras	Rep. in part, XVI of 1874. Printed, Madras Code.
	II	Katák Port-dues ...	Rep., XII of 1875.
	III	State Prisoners	Rep. in part, XIV of 1870. Printed, General Acts, p. 182.
	IV	Governor General ...	Rep., VIII of 1868.
	V	Escaped Convicts ...	Rep., XVII of 1860.
	VI	Impressment of Labour ...	Rep., VIII of 1868.

Year.	Number.	Subject-matter.	How disposed of.
1858 ...	VII	Port-dues, Madras ...	Rep., Madras Act VII of 1867.
	VIII	Karáchi Port-dues ...	Rep., XII of 1875.
	IX	Cambay Gulf Port-dues ...	Rep., Bombay Act XI of 1866.
	X	Confiscation, &c., for Rebellion	Rep., VIII of 1868.
	XI	Corporal Punishment ...	Rep., VIII of 1868.
	XII	Roads in Suburbs of Calcutta and Howrah ...	Rep. locally, Ben. Act III of 1864. Printed, Lower Provinces Code.
	XIII	Unlawful Possession of Arms	Rep., VIII of 1868.
	XIV	Minors, Madras ...	Printed, Madras Code.
	XV	Aden Port-dues ...	Rep., XII of 1875.
	XVI	Subordinate Criminal Court, Utakamand ...	Rep., VIII of 1868.
	XVII	Cambay Gulf Light-dues ...	Rep., VIII of 1868.
	XVIII	Regulation of Ports, Madras..	Rep., XII of 1875.
	XIX	Authentication of certain Stamped Paper ...	Rep., XVIII of 1869.
	XX	Dispossessed Landed Proprietors, N. W. Provinces ...	Rep., VIII of 1868.
	XXI	Native Passenger Ships ...	Rep., XII of 1870.
	XXII	Transportation	Rep., VIII of 1868.
	XXIII	Karnul, Madras ...	Rep., XV of 1874.
	XXIV	Family of Nawáb of Carnatic	Rep., VIII of 1868.
	XXV	Municipal Commissioners, Bombay Town ..	Rep., Bombay Act II of 1865.
	XXVI	State Offences	Rep., VIII of 1868.
	XXVII	Governor General .	Rep., VIII of 1868.
	XXVIII	Police, Port of Madras	Rep. in part, XIV of 1870. Printed, Madras Code.
	XXIX	Suits in Civil Courts, N. W. Provinces	Rep., VIII of 1868.
	XXX	Nawáb of Carnatic ...	Rep., VIII of 1868.
	XXXI	Alluvial Land, Bengal ...	Rep. locally, XIX of 1873. Printed, Lower Provinces Code.
	XXXII	Tanjore	Rep., XV of 1874.
	XXXIII	Indian Navy	Rep., VIII of 1868.
	XXXIV	Lunacy, Supreme Courts ...	Rep. in part, XVI of 1874. Printed, General Acts, pp. 183—189.
	XXXV	Lunacy, Mofussil Courts ...	Rep. in part, XIV of 1870. Printed, General Acts, pp. 190—194.
	XXXVI	Lunatic Asylums ...	Rep. in part, XVI of 1874. Printed, General Acts, pp. 194—201.

Year.	Number.	Subject-matter.	How disposed of.
1858 ...	XXXVII	Nawáb of Carnatic ...	Rep. in part, XVI of 1874. Printed, Private & Personal Acts.
	XXXVIII	Delhi Territory... ...	Rep., VIII of 1868.
	XXXIX	Arrears of Land-revenue, Madras	Rep., Madras Act II of 1864, s. 65.
	XL	Minors, Bengal ...	Rep. in part, XIV of 1870; Bengal Act IV of 1870, sec. 86. Printed, Lower Provinces Code; ,, N.-W. Provinces Code; ,, Panjáb Code; ,, Oudh Code; ,, Burma Code.
	XLI	Stamp-duties, Bengal ...	Rep., XVIII of 1869.
1859 ...	I	Merchant Seamen ...	Rep. in part, XV of 1863; XIV of 1870; XVI of 1874; IV of 1875. Printed, Genl. Acts, pp. 201—236.
	II	Amending Act XXX of 1858	Rep., VIII of 1868.
	III	Cantonment Joint Magistrates	Rep. in part, XVI of 1864; XVI of 1874. locally, Madras Act I of 1866, s. 9. Printed, General Acts, pp. 237—239.
	IV	Removal of Prisoners ...	Rep., VIII of 1868.
	V	Ghátwálí Lands, Bírbhúm ...	Printed, Lower Provinces Code.
	VI	Ahmadábád Magistracy ..	Rep., XII of 1873.
	VII	Customs-duties	Rep., XVI of 1874.
	VIII	Civil Procedure ...	Rep. in part,— IV of 1860; XXXVI of 1860, s. 13, cl. 4; XXIII of 1861; XXVI of 1867; VII of 1870; XIV of 1870; IX of 1871. in part, locally, XXXII of 1871; VII of 1872. Suspended in part, locally, XX of 1862, ss. 5, 10. Printed, General Acts, pp. 239—322.

Year.	Number.	Subject-matter.	How disposed of.
1859 ...	IX	Claims to Property seized as forfeited ...	Rep. in part, VIII of 1868. Printed, General Acts, pp. 323, 324.
	X	Recovery of Rent, Bengal	Rep. locally, XVIII of 1873, s. 2; Bengal Act VIII of 1869, s. 107; in part, XXXVI of 1860; VII of 1870; XIV of 1870; in part, locally,— XIV of 1863, s. 5; XX of 1865, s. 3; Bengal Act VI of 1862. Printed, Lower Provinces Code; " Central Provinces Code.
	XI	Sales of Land for Revenue-arrears, Lower Provinces	Rep. in part, XIV of 1870; Bengal Act III of 1862; Bengal Act VII of 1868, s. 29. Printed, Lower Provinces Code.
	XII	Pilots, Calcutta ...	Rep. in part, XIV of 1870; X of 1873. Printed, Lower Provinces Code.
	XIII	Fraudulent Breaches of Contract by Workmen	Rep. in part, XVI of 1874. Printed, General Acts, pp. 324, 325.
	XIV	Limitation of Suits	Rep. in part, IX of 1871. Printed, General Acts, p. 326.
	XV	Patents ..	Rep. in part, XVIII of 1869. Printed, General Acts, pp. 326—339.
	XVI	Nawáb of Carnatic ...	Rep., XXXVII of 1860.
	XVII	Ábkárí, Bombay Town	Rep. in part, XIV of 1870. Printed, Bombay Code.
	XVIII	Magistrates and Justices of the Peace	Rep., X of 1875.
	XIX	Continuing Act XXVIII of 1857	Rep., VIII of 1868.
	XX	Mápillas, Malabar	Rep. in part, XIV of 1870; Mad. Act VII of 1869. Printed, Madras Code.
	XXI	Governor-General ...	Rep., VIII of 1868.

Year.	Number.	Subject-matter.	How disposed of.
1859 ...	XXII	Amending Act I of 1852 ...	Rep., XIII of 1871.
	XXIII	Land Customs, Madras and Bombay	Rep., XVI of 1874.
	XXIV	Police, Madras ...	Rep. in part,— XVII of 1862; XIV of 1870; XVI of 1874. Printed, Madras Code.
	XXV	Native Passenger Vessels	Rep. in part, XIV of 1870. Printed, Lower Provinces Code; „ Madras Code; „ Burma Code.
	XXVI	Continuing Act XXVIII of 1857	Rep., VIII of 1868.
	XXVII	State Offences	Rep., VIII of 1868.
	XXVIII	Foreigners	Rep., VIII of 1868.
1860 ...	I	Duty on Salt, N.-W. Provinces	Rep., VIII of 1875.
	II	Carriage of Passengers by Sea ...	Rep. in part, XIV of 1870. Printed, General Acts, pp. 340, 341.
	III	Sessions Judges, Bengal ...	Rep., XVII of 1862.
	IV	Civil Procedure ...	Rep., XXIII of 1861.
	V	Cattle-trespass ...	Rep., I of 1871.
	VI	Native Articles of War ...	Rep., XXIX of 1861.
	VII	Joint Stock Banks ...	Rep., X of 1866, s. 219.
	VIII	Electric Telegraphs ...	Rep. in part,— XIV of 1870; XVI of 1874. Printed, General Acts, pp. 342—346.
	IX	Disputes between Workmen and Employers ...	Rep. in part, IX of 1871. Printed, General Acts, pp. 346, 347.
	X	Customs-duties ...	Rep., VIII of 1868.
	XI	Indigo Contracts ...	Rep., VIII of 1868.
	XII	Emigration to Saint Vincent	Rep., XIII of 1864.
	XIII	Farakhábád Zila Court ...	Rep., VIII of 1868.
	XIV	King of Oudh ...	Printed, Private & Personal Acts.
	XV	Calcutta Canals ...	Rep., XII of 1873.
	XVI	Amending Act XIV of 1856	Rep., XVI of 1874.
	XVII	Escaped Convicts ...	Rep., V of 1871.
	XVIII	Governor General ...	Rep., VIII of 1868.
	XIX	Port-dues	Rep., XII of 1875.

Year.	Number.	Subject-matter.	How disposed of.
1860 ...	XX	Sir Jamsetjee Jejeebhoy ...	Printed, Private & Personal Acts.
	XXI	Registration of Societies	Rep. in part, XVI of 1874. Printed, General Acts, pp. 347—352.
	XXII	Chittagong Hill-Tracts	Rep. locally, XIV of 1874; in part, XVI of 1874; Ben. Act IV of 1863. Printed, Lower Provinces Code.
	XXIII	Abkári, Bengal ...	Rep. locally, X of 1871; in part, VI of 1863; XIV of 1870; XVI of 1874. Printed, Lower Provinces Code.
	XXIV	Marriages by Scotch Ministers	Rep., VIII of 1868.
	XXV	Port-dues, Bassein ...	Rep., XII of 1875.
	XXVI	Administrator General ...	Rep., XXIV of 1867.
	XXVII	Collection of Debts on Successions	Rep. in part, XVI of 1874. Printed, General Acts, pp. 352—357.
	XXVIII	Boundary-marks, Madras ...	Rep. in part, XIV of 1870. Printed, Madras Code.
	XXIX	Continuing Act XXVIII of 1857	Rep., VIII of 1868.
	XXX	Kunch and Kálpi ..	Rep., VIII of 1868.
	XXXI	Arms Act	Rep. in part, VI of 1866; XIV of 1870; IX of 1871; XVI of 1874. Printed, General Acts, pp. 357—367.
	XXXII	Income-tax ...	Rep., VIII of 1868.
	XXXIII	Emigration to Natal ...	Rep., XIII of 1864.
	XXXIV	Indemnity for acts during Mutiny	Printed, General Acts, p. 368.
	XXXV	Transportation of Convicts ...	Rep., XVII of 1862.
	XXXVI	Stamp Act	Rep., Act X of 1862. Printed, General Acts, Appendix.
	XXXVII	Repealing Act XVI of 1859...	Rep., VIII of 1868.
	XXXVIII	Nawáb of Carnatic ...	Rep., VIII of 1868.
	XXXIX	Income-tax	Rep., VIII of 1868.
	XL	Amending Act XXXVI of 1860	Rep., X of 1862.
	XLI	Emigration to Saint Kitts .	Rep., XIII of 1864.
	XLII	Small Cause Courts, Mofussil	Rep., XI of 1865, s. 2.

Year.	Number.	Subject-matter.	How disposed of.
1860 ...	XLIII	Amending Act VIII of 1859	Rep., XXIII of 1861.
	XLIV	Governor General	Rep., VIII of 1868.
	XLV	Penal Code	Rep. in part, XIV of 1870; XXVII of 1870; XIX of 1872. Printed, General Acts, pp. 369—515.
	XLVI	Emigration to French Colonies	Rep., VII of 1871.
	XLVII	University Degrees ...	Printed, General Acts, p. 516.
	XLVIII	Amending Act XIII of 1856	Rep. locally, Bengal Act IV of 1866, s. 2; Madras Act VIII of 1867, s. 81; in part, III of 1863; XIV of 1870; XVI of 1874; locally, in part, Bengal Act I of 1864; Bombay Act IX of 1867; Printed, Bombay Code.
	XLIX	Emigration to British Colonies	Rep., XIII of 1864.
	L	Vacations in Civil Courts, Bengal	Rep., VI of 1871.
	LI	Amending Act XXXVI of 1860 ...	Rep., X of 1862.
	LII	Amending Act XVIII of 1854 ...	Printed, General Acts, pp. 516, 517.
	LIII	Amending Act X of 1859 ...	Rep., VIII of 1868.
1861 ...	I	Supreme Court, Bombay ...	Rep., VIII of 1868.
	II	Amending Act VI of 1857...	Rep., X of 1870.
	III	Customs-duty, Cochin ...	Rep., XIII of 1871.
	IV	Port-dues, Calingapatam and Munsoorcottah ...	Rep., Madras Act VII of 1867.
	V	Police	Rep. in part, IX of 1871; XVI of 1874; in part, locally, Bengal Act VII of 1869. Printed, General Acts, pp. 517—527.
	VI	Commencement of Penal Code	Rep., VIII of 1868.
	VII	Salt-duty, Bombay ...	Rep., XXIV of 1869.

Year.	Number.	Subject-matter.	How disposed of.
1861	VIII	Port-dues, Amherst ...	Rep., IX of 1864.
	IX	Minors	Printed, General Acts, pp. 528, 529.
	X	Repealing Enactments relating to Civil Procedure ...	Rep., XIV of 1870.
	XI	Amending Act XIV of 1859	Rep., VIII of 1868.
	XII	Amending Act XLII of 1860	Rep., XI of 1865, s. 2.
	XIII	Police	Rep., VIII of 1868.
	XIV	Rohilkhand	Rep. in part, XIV of 1870; locally, XIV of 1874. Printed, N. W. Provinces Code.
	XV	Port-dues, Konkan Ports ...	Rep., Bom. Act XI of 1866.
	XVI	Stage-carriages ...	Rep. in part, XIV of 1870. Printed, General Acts, pp. 529—533.
	XVII	Customs-duties, N. W. P. ..	Rep., VIII of 1875.
	XVIII	License-duty	Rep., II of 1862.
	XIX	Paper-currency	Rep., III of 1871.
	XX	Amending Act XXV of 1858	Rep., Bom. Act II of 1865.
	XXI	Income-tax	Rep., VIII of 1868.
	XXII	Cattle-trespass	Rep., I of 1871.
	XXIII	Civil Procedure ...	Rep. in part, VII of 1870; XIV of 1870; IX of 1871. Printed, General Acts, pp. 534—542.
	XXIV	Banks of Bengal, Madras and Bombay	Rep., III of 1871.
	XXV	Criminal Procedure .	Rep., X of 1872.
	XXVI	Occupation of Land, Malacca	Omitted.
	XXVII	Andaman Islands ...	Rep., Reg. 4th September 1874.
	XXVIII	Merchant Seamen ...	Rep., XV of 1863.
	XXIX	Native Articles of War ...	Rep., V of 1869.
	XXX	Bengal Military Orphan Society ..	Rep., VIII of 1868.
	XXXI	Saltpetre Manufacture	Rep. locally, VIII of 1875. Printed, Lower Provinces Code.
	XXXII	Limitation	Rep., VIII of 1868.
	XXXIII	Amending Schedule to Act XXV of 1861 ...	Rep., VIII of 1869.
1862 ...	I	Continuing Act XXXIII of 1857	Rep., VIII of 1868.
	II	Repealing Act XVIII of 1861	Rep., VIII of 1868.
	III	Government Seal ...	Printed, General Acts, p. 543.

Year.	Number.	Subject-matter.	How disposed of.
1862 ...	IV	Bank of Bengal ...	Rep. in part, XIV of 1870. Printed, Private & Personal Acts.
	V	Payment at Presidency Banks	Printed, General Acts, pp. 543—546.
	VI	Annexing Schedule to Act IV of 1862 ...	Printed, Private & Personal Acts.
	VII	Amending Act XLVI of 1860	Rep., VII of 1871.
	VIII	King of Oudh ...	Rep. in part, XIII of 1868. Printed, Private & Personal Acts.
	IX	Income-tax ...	Rep., VIII of 1868.
	X	Stamp-duties	Rep., VII of 1870. Printed, General Acts, Appendix.
	XI	Amending Act X of 1860 ..	Rep., VIII of 1868.
	XII	Repealing in part Act II of 1835	Rep., VIII of 1868.
	XIII	Silver and Copper Coinage ...	Rep., XXIII of 1870.
	XIV	Amending Act XIV of 1859	Rep., VIII of 1868.
	XV	Amending Code of Criminal Procedure	Rep., VIII of 1869.
	XVI	Income-tax.	Rep., VIII of 1868.
	XVII	Repealing Enactments relating to Criminal Law ...	Rep., X of 1872.
	XVIII	Criminal Procedure, Supreme Courts	Rep. in part, XII of 1867; X of 1875; locally, XXV of 1863. Printed, General Acts, pp. 546—549.
	XIX	Contraband Salt, Oudh ...	Rep., VIII of 1875.
	XX	Presidency High Courts ...	Rep. in part, XV of 1868; VII of 1870; XIV of 1870. Printed, General Acts, pp. 549, 550.
	XXI	Subordinate Medical Officers Widows and Orphans' Fund	Rep., VIII of 1868.
	XXII	Emigration to Seychelles. ...	Rep., XIII of 1864.
	XXIII	Customs-duties ...	Rep., XIV of 1870.
	XXIV	Continuing Act XX of 1862	Rep. in part, VIII of 1868. Printed, General Acts, p. 550.
1863 ...	I	Civil Courts, Burma ...	Rep., VII of 1872.
	II	Appeals to Queen in Council	Rep., VI of 1874.
	III	Police, Straits Settlements ...	Omitted.
	IV	Effectuating Treaty with Burma	Rep. in part, XIII of 1873; XVI of 1874. Printed, British Burma Code.

Year.	Number.	Subject-matter.	How disposed of.
1863 ...	V	Amending Act XXIX of 1861	Rep., V of 1869.
	VI	Sea-customs	Rep. in part, XVII of 1867, s. 3; XX of 1867; X of 1868; XVII of 1869; XIV of 1870; IX of 1871; XVI of 1875, s. 12. Printed, General Acts, pp. 551—629.
	VII	Emigration to Saint Croix ...	Rep., XIII of 1874.
	VIII	Confinement of Prisoners sentenced by Courts ...	Rep., V of 1871.
	IX	Amending Code of Civil Procedure	Printed, General Acts, p. 629.
	X	Darjeeling	Rep., XIX of 1867.
	XI	Peons for Service of Process ..	Rep., VII of 1870.
	XII	Mahoba and Jeitpur ...	Rep., XV of 1874.
	XIII	Imprisonment of Convicts, Bombay Town ...	Printed, Bombay Code.
	XIV	Amending Act X of 1859 in N. W. Provinces ...	Rep. locally, XVIII of 1873; in part, locally, VIII of 1873. Printed, Central Provinces Code.
	XV	Merchant Seamen ...	Rep., IV of 1875.
	XVI	Excise on Spirits used exclusively in Manufactures ...	Printed, General Acts, pp. 630, 631.
	XVII	Municipal Commissioners, Straits Settlements ...	Omitted.
	XVIII	Master in Equity: Process of High Courts ...	Rep. in part, VIII of 1868; X of 1873; XII of 1873. Printed, General Acts, pp. 632, 633.
	XIX	Partition of Revenue-paying Estates	Rep. locally, XIX of 1873; in part, XIV of 1870. Printed, Oudh Code. " Central Provinces Code.
	XX	Religious Endowments	Rep. in part, VII of 1870; XIV of 1870; XVI of 1874. Printed, General Acts, pp. 634—640.
	XXI	Recorders' Courts, Burma ...	Rep., VII of 1872.
	XXII	Acquisition of Land for certain Works of Public Utility ...	Rep., X of 1870.

Year.	Number.	Subject-matter.	How disposed of.
1863 ...	XXIII	Claims to Waste-lands ...	Rep. in part, IX of 1871. Printed, General Acts, pp. 640—646.
	XXIV	Burma Courts	Rep., VII of 1872.
	XXV	Imprisonment of Convicts, Calcutta	Rep., XII of 1867.
	XXVI	Customs-duties... ...	Rep., VIII of 1868.
	XXVII	Income-tax	Rep., VIII of 1868.
	XXVIII	Stamp-duties, Straits Settlements	Omitted.
	XXIX	Receipts of Presidency Banks	Printed, General Acts, pp. 646—648.
	XXX	Claims against Native Government of Oudh ...	Rep., VIII of 1868.
	XXXI	Official Gazette... ..	Printed, General Acts, p. 648.
	XXXII	Continuing Act XX of 1862	Rep. in part, VII of 1870. Printed, General Acts, p. 648.

THE

UNREPEALED GENERAL ACTS

OF

THE GOVERNOR GENERAL IN COUNCIL.

ACT No. II of 1834.

Passed on the 20th November 1834.

Secretaries to Government to exercise powers of Chief Secretaries.

Be it enacted that each of the Secretaries to the Government of India and to the Government of Fort William in Bengal, shall be competent to perform all the duties and to exercise all the powers which by any Act of Parliament or any Regulation now in force, are assigned to the Chief Secretary to the Government of Fort William in Bengal, and that each of the Secretaries to the Government of Fort St. George and Bombay respectively, shall be competent to perform all the duties, and to exercise all the powers, which by any Act of Parliament or any Regulation now in force, are assigned to the Chief Secretaries to the Governments of Fort St. George and Bombay respectively.[a]

ACT No. XXVI of 1836.[b]

Passed on the 7th November 1836.

Power to appoint Superintendent of Police of Camp of Governor General, &c.

1. As often as the Governor General of India, or the Commander-in-Chief of all the Forces in India, or the Lieutenant Governor of the North-Western Provinces, shall pass through any part of the territories of the East India Company, attended by a Camp, it shall be lawful for the Governor General of India in Council by an Order in Council, to appoint a Superintendent of the Police of such Camp.[c]

Jurisdiction of Superintendent.

2. With respect to all offences committed in any such Camp, or on the line of march between the Stations of any such Camp, such Superintendent

[a] See 33 Geo. III, c. 52, s. 39: 53 Geo. III, c. 155, s. 79: 58 Geo. III, c. 84, s. 2 (repealed) and Bengal Regulation XXII, 1806, s. 11 (repealed.)

[b] See the Scheduled Districts Act, XV of 1874.

[c] Now see Act X of 1872, s. 42.

shall have concurrent criminal jurisdiction with the Magistrate of the Zila or City, within which such offence shall have been committed.

Giving effect to sentence of Superintendent.

3. As often as the said Superintendent shall, by virtue of the powers conferred on him by the preceding Clause, commit any person for trial before the Sessions Court, or sentence any person to imprisonment, it shall be lawful for the said Superintendent to transmit such person to the Magistrate of the Zila or City where the Camp shall then be, with a copy of the commitment or sentence, under the hand of him the said Superintendent, and the said Magistrate shall give effect to such commitment or sentence.

Officers to assist Superintendent.

4. All officers subordinate to the Magistrate of the Zila or City where such Camp shall be, shall be assisting to the said Superintendent in the exercise of the powers conferred on him by this Act, in the same manner as they are bound to be assisting to the said Magistrate.

ACT No. IV of 1837.[a]

Passed on the 17*th April* 1837.

All subjects of Crown empowered to hold land.

1. It shall be lawful for any subject of His Majesty to acquire and hold in perpetuity, or for any term of years, property in land, or in any emoluments issuing out of land, in any part of the Territories of the East India Company.[b]

Rules applied to holdings under Act.

2. All rules which prescribe the manner in which such property as is aforesaid may now be acquired and held by Natives of the said Territories, shall extend to all persons who shall, under the authority of this Act, acquire or hold such property.[b]

ACT No. XXV of 1838.[c]

Passed on the 8*th October* 1838.

Interpretation.

1. It is hereby enacted, that the words and expressions hereinafter mentioned shall in this Act, except where the nature of the provision or the context of the Act shall exclude such construction, be interpreted as follows; (that is to say) the word "will" shall extend to a testament, and to a codicil, and to an appointment by will or by writing in the nature of a will in exercise of a power, and also to a disposition by will and testament of devise of the custody and tuition of any child by virtue of an Act passed in the twelfth year of the reign of King Charles the Second, intituled "An Act for taking "away the Court of Wards and liveries, and tenures *in capite* and by Knight's

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[a] See the Scheduled Districts Act, XV of 1874. For the old law, see Bengal Regulation II, 1793, ss. 17, 46.

[b] See Act II of 1853, and 4 Bengal F. B. 161.

[c] Copied from 1 Vic., c. 26. The whole Act, except as to Wills made before the first January 1866, was repealed by Act VIII of 1868. As to these wills, it extends to the whole of British India, except the Scheduled Districts,—see Act XV of 1874.

"service and purveyance, and for settling a revenue upon His Majesty in lieu "thereof," or by virtue of an Act passed in the Parliament of Ireland in the fourteenth and fifteenth years of the reign of King Charles the Second, intituled "An Act for taking away the Court of Wards and liveries, and tenures *in capite* "and by Knight's service," and to any other testamentary disposition, and the words "real estate" shall extend to messuages, lands, rents and hereditaments whether corporeal, incorporeal or personal, and to any undivided share thereof and to any estate, right or interest, (other than a chattel interest) therein, and the words "personal estate" shall extend to leasehold estates and other chattels real, and also to monies, shares of Government and other funds, securities for money (not being real estates), debts, choses in action, rights, credits, goods, and all other property whatsoever which by law devolves upon the executor or administrator, and to any share or interest therein; and every word importing the singular number only shall extend and be applied to several persons or things as well as one person or thing, and every word importing the masculine gender only shall extend and be applied to a female as well as a male.

Enactments repealed.

2. And it is hereby enacted, that an Act passed in the thirty-second year of the reign of King Henry the Eighth, intituled "The Act of Wills, "Wards and primer seisins, whereby a man may devise two parts of his "land;" and also an Act passed in the thirty-fourth and thirty-fifth years of the reign of the said King Henry the Eighth, intituled "The Bill con-"cerning the explanation of Wills," and also an Act passed in the Parliament of Ireland in the tenth year of the reign of King Charles the First, intituled "An Act how Lands, Tenements, &c., may be disposed by will or otherwise, "and concerning wards and primer seisins;" and also so much of an Act passed in the twenty-ninth year of the reign of King Charles the Second, intituled "An Act for prevention of Frauds and Perjuries;" and of an Act passed in the Parliament of Ireland in the seventh year of the reign of King William the Third, intituled "An Act for prevention of Frauds and Perjuries as relates to devises or bequests of lands or tenements, or to the revocation or alteration of any devise in writing of any lands, tenements or hereditaments, or any clause thereof, or to the devise of any estate *pur autre vie*, or to any such estate being assets, or to nuncupative wills, or to the repeal, altering or changing of any will in writing concerning any goods or chattels or personal estate, or any clause, devise or bequest therein;" and also so much of an Act passed in the fourth and fifth years of the reign of Queen Anne, intituled "An Act for the amendment of the Law and the better "advancement of Justice;" and of an Act passed in the Parliament of Ireland

in the sixth year of the reign of Queen Anne, intituled "An Act for the "amendment of the Law and the better advancement of Justice" as relates to witnesses to nuncupative wills; and so far as the following Acts may be construed to have any operation within the territories of the East India Company, so much of an Act passed in the fourteenth year of the reign of King George the Second, intituled "An Act to amend the law concern- "ing common recoveries," and to explain and amend an Act made in the twenty-ninth year of the reign of King Charles the Second, intituled "An Act "for prevention of frauds and perjuries" as relates to estates *pur autre vie;* and also an Act passed in the twenty-fifth year of the reign of King George the Second, intituled "An Act for avoiding and putting an end to certain "doubts and questions relating to the attestation of wills and codicils concern- "ing real estates in that part of Great Britain called England, and in His "Majesty's colonies and plantations in America," except so far as relates to His Majesty's colonies and plantations in America, and also an Act passed in the Parliament of Ireland in the same twenty-fifth year of the reign of King George the Second, intituled "An Act for the avoiding and putting an "end to certain doubts and questions relating to the attestation of wills and "codicils concerning real estates," shall from the passing of this Act cease to have effect in the territories of the East India Company, except so far as the same Acts or any of them respectively relate to any wills or estates *pur autre vie* to which this Act does not extend.

Wills to which Act applies.

3. And it is hereby enacted, that this Act shall only extend to the wills of persons whose personal property cannot by the law of England pass to their representatives without probate or letters of administration obtained in one of Her Majesty's Supreme Courts of Judicature, and that the Statutes and parts of Statutes aforesaid are only repealed as far as they relate to the succession to the property of such persons.[a]

Limitation of repeal.

Property disposable by will.

4. And it is hereby enacted, that it shall be lawful for every person to devise, bequeath or dispose of by his will executed in manner hereinafter required, all real estate and all personal estate which he shall be entitled to, either at law or in equity, at the time of his death, and which, if not so devised, bequeathed or disposed of, would devolve upon the heir-at-law of him, or, if he became entitled by descent, of his ancestor, or upon his executor or administrator, and that the power hereby given shall extend to all estates *pur autre vie,* whether there shall or shall not be any special occupant thereof, and whether the same shall be a corporeal or an incorporeal hereditament, and whether the same shall be freehold or of any

[a] See *Greenway* v. *Hogg*, Bourke, Part VII, pp. 116, 130

other tenure, and also to all contingent, executory or other future interests in any real or personal estate, whether the testator may or may not be ascertained as the person or one of the persons in whom the same respectively may become vested, and whether he may be entitled thereto under the instrument by which the same respectively were created, or under any disposition thereof by deed or will; and also to all rights of entry for conditions broken, and other rights of entry, and also to such of the same estates, interests, and rights respectively, and other real and personal estate as the testator may be entitled to at the time of his death, notwithstanding that he may become entitled to the same subsequently to the execution of his will.

Infant's will invalid.

5. And it is hereby enacted, that no will made by any person under the age of twenty-one years shall be valid.

Married woman's will.

6. Provided also, and it is hereby enacted, that no will made by any married woman shall be valid, except such a will as might have been made by a married woman before the passing of this Act.

Mode of execution.

7. And it is hereby enacted, that no will shall be valid unless it shall be in writing and executed in manner hereinafter mentioned; (that is to say) it shall be signed at the foot or end thereof by the testator or by some other person in his presence and by his direction, and such signature shall be made or acknowledged by the testator in the presence of two or more witnesses present at the same time, and such witnesses shall subscribe the will in the presence of the testator, but no form of attestation shall be necessary.[a]

Execution of appointment by will.

8. And it is hereby enacted, that no appointment made by will in exercise of any power shall be valid, unless the same be executed in manner hereinbefore required; and every will executed in manner hereinbefore required shall, so far as respects the execution and attestation thereof, be a valid execution of a power of appointment by will, notwithstanding that it shall have been expressly required that a will made in exercise of such power should be executed with some additional or other form of execution or solemnity.

Publication unnecessary.

9. And it is hereby enacted, that every will executed in manner hereinbefore required shall be valid without any other publication thereof.

Incompetency of attesting witness to prove will not to invalidate it.

10. And it is hereby enacted, that if any person who shall attest the execution of a will, shall at the time of the execution thereof, or at any time afterwards, be incompetent to be admitted a witness to prove the execution thereof, such will shall not on that account be invalid.

Devise to attesting witness, or to his or her

11. And it is hereby enacted, that if any person shall attest the execution of any will, to whom or to whose wife or husband any beneficial devise, legacy, estate, interest, gift or appointment of or affecting any real or per-

[a] See *Casement* v. *Fulton*, 3 Moo. I. A. 395.

wife or husband void but witness may prove will.

sonal estate (other than and except charges and directions for the payment of any debt or debts) shall be thereby given or made, such devise, legacy, estate, interest, gift or appointment shall, so far only as concerns such person attesting the execution of such will, or the wife or husband of such person, or any person claiming under such person or wife or husband, be utterly null and void, and such person so attesting shall be admitted as a witness to prove the execution, or to prove the validity or invalidity thereof, notwithstanding such devise, legacy, estate, interest, gift or appointment mentioned in such will.

Attesting witness with whose debt estate is charged by will, admissible to prove it.

12. And it is hereby enacted, that in case by any will any real or personal estate shall be charged with any debt or debts, and any creditor, or the wife or husband of any creditor, whose debt is so charged shall attest the execution of such will, such creditor, notwithstanding such charge, shall be admitted a witness to prove the execution of such will, or to prove the validity or invalidity thereof.

Executor not incompetent to prove will.

13. And it is hereby enacted, that no person shall, on account of his being an executor of a will, be incompetent to be admitted a witness to prove the execution of such will, or a witness to prove the validity or invalidity thereof.

Revocation of will by testator's marriage.

14. And it is hereby enacted, that every will made by a man or woman shall be revoked by his or her marriage (except a will made in exercise of a power of appointment, when the real or personal estate thereby appointed would not in default of such appointment pass to his or her heir, executor or administrator, or the person entitled as his or her next of kin under the Statute of Distributions).

Will not revoked by presumption of intention.

15. And it is hereby enacted, that no will shall be revoked by any presumption of an intention on the ground of an alteration in circumstances.

Will or codicil how revocable.

16. And it is hereby enacted, that no will or codicil, or any part thereof shall be revoked otherwise than as aforesaid, or by another will or codicil executed in manner hereinbefore required, or by some writing declaring an intention to revoke the same, and executed in the manner in which a will is hereinbefore required to be executed, or by the burning, tearing or otherwise destroying the same by the testator or by some person in his presence and by his direction with the intention of revoking the same.

Effect of obliteration, interlineation or alteration.

17. And it is hereby enacted, that no obliteration, interlineation or other alteration made in any will after the execution thereof, shall be valid or have any effect, except so far as the words or effect of the will before such alteration shall not be apparent, unless such alteration shall be executed in like manner as hereinbefore is required for the execution of the will; but the will, with such alteration as part thereof, shall be deemed to

be duly executed if the signature of the testator and the subscription of the witnesses be made in the margin or some other part of the will opposite or near to such alteration, or at the foot or end of or opposite or near to such alteration, or at the foot or end of or opposite to a memorandum referring to such alteration, and written at the end or some other part of the will.

Revival of revoked will.

18. And it is hereby enacted, that no will or codicil, or any part thereof, which shall be in any manner revoked, shall be revived otherwise than by the re-execution thereof, or by a codicil executed in a manner hereinbefore required, and showing an intention to revive the same, and when any will or codicil which shall be partly revoked and afterwards wholly revoked, shall be revived, such revival shall not extend to so much thereof as shall have been revoked before the revocation of the whole thereof, unless an intention to the contrary be shown.

Effect of acts not amounting to revocation done subsequent to execution.

19. And it is hereby enacted, that no conveyance or other act made or done subsequently to the execution of a will of, or relating to any real or personal estate therein comprised, except an act by which such will shall be revoked as aforesaid shall prevent the operation of the will with respect to such estate or interest in such real or personal estate as the testator shall have power to dispose of by will at the time of his death.

Will to be construed as if executed immediately before death.

20. And it is hereby enacted, that every will shall be construed, with reference to the real estate and personal estate comprised in it, to speak and take effect as if it had been executed immediately before the death of the testator unless a contrary intention shall appear by the will.

Property comprised in devise which cannot take effect to be included in residuary devise.

21. And it is hereby enacted, that unless a contrary intention shall appear by the will, such real estate and interest therein as shall be comprised or intended to be comprised in any devise in such will contained, which shall fail or be void by reason of the death of the devisee in the lifetime of the testator, or by reason of such devise being contrary to law, or otherwise incapable of taking effect shall be included in the residuary devise (if any) contained in such will.

General devise to operate as an execution of power of appointment.

22. And it is hereby enacted, that a general devise of the real estate of the testator, or of the real estate of the testator in any place or in the occupation of any person mentioned in his will, or otherwise described in a general manner, shall be construed to include any real estate, or any real estate to which such description shall extend (as the case may be) which he may have power to appoint in any manner he may think proper and shall operate as an execution of such power, unless a contrary intention shall appear by the will, and in like manner a bequest of the personal estate of the testator or any bequest of personal estate described in a general manner shall be construed to include any personal estate, or any personal estate to which such

description shall extend (as the case may be) which he may have power to appoint in any manner he may think proper and shall operate as an execution of such power, unless a contrary intention shall appear by the will.

Devise without words of limitation.

23. And it is hereby enacted, that where any real estate shall be devised to any person without any words of limitation, such devise shall be construed to pass the fee simple, or other the whole estate or interest which the testator had power to dispose of by will in such real estate, unless a contrary intention shall appear by the will.

Construction of words importing want or failure of issue.

24. And it is hereby enacted, that in any devise or bequest of real or personal estate the words "die without issue," or "die without leaving issue," or any other words which may import either a want or failure of issue of any person in his lifetime or at the time of his death, or an indefinite failure of his issue, shall be construed to mean a want or failure of issue in the lifetime or at the time of the death of such person, and not an indefinite failure of his issue, unless a contrary intention shall appear by the will, by reason of such person having a prior estate tail, or of a preceding gift being, without any implication arising from such words, a limitation of an estate tail to such person or issue, or otherwise; Provided, that this Act shall not extend to cases where such words as aforesaid import, if no issue described in a preceding gift shall be born, or if there shall be no issue who shall live to attain the age or otherwise answer the description required for obtaining a vested estate by a preceding gift to such issue.

Devise of real estate to trustee or executor.

25. And it is hereby enacted, that where any real estate shall be devised to any trustee or executor, such devise shall be construed to pass the fee simple or other the whole estate or interest which the testator had power to dispose of by will in such real estate, unless a definite term of years, absolute or determinable or an estate of freehold, shall thereby be given to him expressly or by implication.

Devise of real estate to trustee without limitation.

26. And it is hereby enacted, that where any real estate shall be devised to a trustee without any express limitation of the estate to be taken by such trustee, and the beneficial interest in such real estate, or in the surplus rents and profits thereof shall not be given to any person for life, or such beneficial interest shall be given to any person for life, but the purposes of the trust may continue beyond the life of such person, such devise shall be construed to vest in such trustee the fee simple or other the whole legal estate which the testator had power to dispose of by will in such real estate and not an estate determinable when the purposes of the trust shall be satisfied.

Devise of estate tail when devisee

27. And it is hereby enacted, that where any person to whom any real estate shall be devised for an estate tail, or an estate in quasi entail, shall

die in the lifetime of the testator, leaving issue who would be inheritable under such entail, and any such issue shall be living at the time of the death of the testator, such devise shall not lapse, but shall take effect as if the death of such person had happened immediately after the death of the testator, unless a contrary intention shall appear by the will.

dies in testator's lifetime, leaving inheritable issue.

28. And it is hereby enacted, that where any person being a child or other issue of the testator to whom any real or personal estate shall be devised or bequeathed for any estate or interest not determinable at or before the death of such person, shall die in the lifetime of the testator leaving issue, and any such issue of such person shall be living at the time of the death of the testator, such devise or bequest shall not lapse, but shall take effect as if the death of such person had happened immediately after the death of the testator, unless a contrary intention shall appear by the will.

Devise to issue of testator, who dies in testator's lifetime but leaves issue alive at testator's death.

29. And it is hereby enacted, that notwithstanding anything in this Act contained, any soldier being in actual military service, or any mariner or seaman being at sea, may dispose of his personal estate as he might have done before the making of this Act.

Saving of wills of soldiers and seamen.

30. And it is hereby enacted, that nothing in this Act contained shall be construed to repeal the provisions of Act No. XX of 1837, whereby immoveable property situate within the jurisdiction of the Court of Judicature of Prince of Wales' Island, Singapore and Malacca transmitted by the last will of any person having a beneficial interest in the same is taken to be and to have been of the nature of chattels real and not of freehold as regards such transmission, provided that such will shall be executed and construed as a will of chattels real is to be executed and construed by virtue of this Act.

Saving of provisions of Act XX of 1837.

31. And it is hereby enacted, that this Act shall not extend to any will made before the first day of February, in the year of our Lord 1839, and that every will re-executed or re-published or revived by any codicil shall for the purposes of this Act be deemed to have been made at the time at which the same shall be so re-executed, re-published, or revived; and that this Act shall not extend to any estate *pur autre vie* of any person who shall die before the first day of February in the year of our Lord 1839.

Saving of wills made before 1st February 1839,

and of certain estates.

ACT No. XXIX of 1839.[a]

Passed on the 16*th December* 1839.

An Act for the Amendment of the Law relating to Dower.

1. Whereas it is expedient to extend the amendments in the English law of dower contained in the statute 3rd and 4th William IV, chapter CV,

Preamble.

[a] The whole Act, except as to marriages contracted before first January 1866, was repealed by Act VIII of 1868. As to its local extent, see Act XV of 1874.

to the territories of the East India Company in cases which, but for the passing of this Act, would be governed by the English law of dower as it existed previously to the passing of the aforesaid statute;

Meaning of the words in the Act.

It is hereby enacted, that the words and expressions hereinafter mentioned, which in their ordinary signification have a more confined or a different meaning, shall in this Act, except where the nature of the provision or the context of the Act shall exclude such construction, be interpreted as follows; that is to say, the word "Land" shall extend to messuages, and all other hereditaments, whether corporeal or incorporeal (except such as are not liable to dower), and to any share thereof, and every word importing the singular number only shall extend and be applied to several persons or things as well as one person or thing.

Widows to be entitled to dower out of equitable estates.

2. And it is hereby further enacted, that when a husband shall die, beneficially entitled to any land for an interest which shall not entitle his widow to dower out of the same at law, and such interest, whether wholly equitable, or partly legal and partly equitable, shall be an estate of inheritance in possession, or equal to an estate of inheritance in possession (other than an estate in joint-tenancy), then his widow shall be entitled in equity to dower out of the same land.

Seisin shall not be necessary to give title to dower.

3. And it is hereby further enacted, that when a husband shall have been entitled to a right of entry or action in any land and his widow would be entitled to dower out of the same if he had recovered possession thereof, she shall be entitled to dower out of the same although her husband shall not have recovered possession thereof; provided that such dower be sued for or obtained within the period during which such right of entry or action might be enforced.

No dower out of estates disposed of.

4. And it is hereby further enacted, that no widow shall be entitled to dower out of any land which shall have been absolutely disposed of by her husband in his lifetime, or by his will.

Priority to partial estates, charges and specialty debts.

5. And it is hereby further enacted, that all partial estates and interests, and all charges created by any disposition or will of a husband, and all debts, incumbrances, contracts, and engagements to which his land shall be subject or liable, shall be valid and effectual as against the right of his widow to dower.

Dower may be barred by a declaration in a deed.

6. And it is hereby further enacted, that a widow shall not be entitled to dower out of any land of her husband, when in the deed by which such land was conveyed to him, or by any deed executed by him, it shall be declared that his widow shall not be entitled to dower out of such land.

Or by a declaration in the husband's will.

7. And it is hereby further enacted, that a widow shall not be entitled to dower out of any land of which her husband shall die wholly or partially

intestate when by the will of her husband, duly executed for the devise of freehold estates, he shall declare his intention that she shall not be entitled to dower out of such land or out of any of his land.

8. And it is hereby further enacted, that the right of a widow to dower shall be subject to any conditions, restrictions or directions which shall be declared by the will of her husband, duly executed as aforesaid.

Dower shall be subject to restrictions.

9. And it is hereby further enacted, that where a husband shall devise any land out of which his widow would be entitled to dower if the same were not so devised, or any estate or interest therein, to or for the benefit of his widow, such widow shall not be entitled to dower out of or in any land of her said husband, unless a contrary intention shall be declared by his will.

Devise of real estate to the widow shall bar her dower

10. And it is hereby further enacted, that no gift or bequest made by any husband to or for the benefit of his widow of or out of his personal estate, or of or out of any of his land not liable to dower shall defeat or prejudice her right to dower unless a contrary intention shall be declared by his will.

Bequest of personal estate to the widow shall not bar her dower.

11. Provided always and it is hereby further enacted, that nothing in this Act contained shall prevent any Court of Equity from enforcing any covenant or agreement entered into by or on the part of any husband not to bar the right of his widow to dower out of his lands or any of them.

Agreement not to bar dower may be enforced.

12. And it is hereby further enacted, that nothing in this Act contained shall interfere with any rule of equity, or of any Ecclesiastical Court by which legacies bequeathed to widows in satisfaction of dower are entitled to priority over other legacies.

Legacies in bar of dower still entitled to preference.

13. And it is hereby further enacted, that no widow shall hereafter be entitled to dower *ad ostium ecclesiæ*, or dower *ex assensu patris*.

Certain dowers abolished.

14. And it is hereby further enacted, that this Act shall not extend to the dower of any widow who shall have been or shall be married on or before the first day of July one thousand eight hundred and forty, and shall not give to any will, deed, contract, engagement, or charge executed, entered into, or created before the said first day of July one thousand eight hundred and forty, the effect of defeating or prejudicing any right to dower.

Act not to take effect before the first July 1840.

15. And it is hereby provided, that this Act shall not be construed to affect any right of property in land otherwise than by modifying the law of dower in cases governed by the English law of dower, or to extend or alter the jurisdiction of any of Her Majesty's Courts of Justice.

Saving of certain rights and jurisdiction.

ACT No. XXX of 1839.[a]

Passed on the 16th December 1839.

An Act for the amendment of the Law of Inheritance.

Preamble.

1. Whereas it is expedient to extend the amendments, in the English law of inheritance contained in the statute 3rd and 4th William IV. chapter CVI. to the territories of the East India Company in cases which, but for the passing of this Act, would be governed by the English law of inheritance as it existed previously to the passing of the aforesaid statute:

Meaning of words in the Act.

It is hereby enacted, that the words and expressions hereinafter mentioned, which in their ordinary signification have a more confined or a different meaning, shall in this Act, except where the nature of the provision or the context of the Act shall exclude such construction, be interpreted as follows; (that is to say) the word "Land" shall extend to messuages, and all other hereditaments, whether corporeal or incorporeal, and whether freehold or of any other tenure, and to money to be laid out in the purchase of land, and to chattels and other personal property transmissible to heirs, and also to any share of the same hereditaments and properties or any of them, and to any estate of inheritance or estate for any life or lives, or other estate transmissible to heirs, and to any possibility, right, or title of entry or action, and any other interest capable of being inherited, and whether the same estates, possibilities, rights, titles, and interests, or any of them, shall be in possession, reversion, remainder, or contingency; and the words "the purchaser" shall mean the person who last acquired the land otherwise than by descent, or than by any escheat, partition, or enclosure, by the effect of which the land shall have become part of or descendible in the same manner as other land acquired by descent; and the word "descent" shall mean the title to inherit land by reason of consanguinity, as well where the heir shall be an ancestor or collateral relation, as where he shall be a child or other issue; and the expression "descendants" of any ancestor shall extend to all persons who must trace their descent through such ancestor; and the expression "the person last entitled to land" shall extend to the last person who had a right thereto, whether he did or did not obtain the possession or the receipt of the rents and profits thereof; and the word "assurance" shall mean any deed or instrument other than a will by which any land shall be conveyed or transferred at law or in equity; and every word importing the singular number only shall extend and be applied to several persons or things

"Land."

"The purchaser."

"Descent."

"Descendant."

"Person last entitled."

"Assurance."

Number and gender.

[a] The whole Act, except as to intestacies occurring before first January 1866, was repealed by Act VIII of 1868. As to its local extent, see Act XV of 1874.

as well as one person or thing, and every word importing the masculine gender only, shall extend and be applied to a female as well as a male.

Descent shall always be traced from the purchaser, but the last owner shall be considered to be the purchaser, unless the contrary be proved.

2. And it is hereby further enacted, that in every case descent shall be traced from the purchaser, and to the intent that the pedigree may never be carried further back than the circumstances of the case and the nature of the title shall require, the person last entitled to the land shall, for the purposes of this Act, be considered to have been the purchaser thereof unless it shall be proved that he inherited the same, in which case the person from whom he inherited the same shall be considered to have been the purchaser, unless it shall be proved that he inherited the same, and in like manner the last person from whom the land shall be proved to have been inherited shall in every case be considered to have been the purchaser unless it shall be proved that he inherited the same.

Heir entitled under a will, shall take as devisee, and a limitation to the grantor or his heirs shall create an estate by purchase.

3. And it is hereby further enacted, that when any land shall have been devised by any testator who shall die after the first day of July one thousand eight hundred and forty, to the heir or to the person who shall be the heir of such testator, such heir shall be considered to have acquired the land as a devisee and not by descent; and when any land shall have been limited by any assurance executed after the said first day of July one thousand eight hundred and forty, to the person or the heirs of the person who shall thereby have conveyed the same land, such person shall be considered to have acquired the same as a purchaser by virtue of such assurance, and shall not be considered to be entitled thereto as his former estate or part thereof.

Where heirs take by purchase under limitations to the heirs of their ancestors, the land shall descend as if the ancestor had been the purchaser.

4. And it is hereby further enacted, that when any person shall have acquired any land by purchase under a limitation to the heirs or to the heirs of the body of any of his ancestors, contained in an assurance executed after the said first day of July one thousand eight hundred and forty, or under a limitation to the heir or to the heirs of the body of any of his ancestors, or under any limitation having the same effect, contained in a will of any testator who shall depart this life after the said first day of July one thousand eight hundred and forty, then and in any of such cases such land shall descend, and the descent thereof shall be traced as if the ancestor named in such limitation had been the purchaser of such land.

Brothers, &c., shall trace descent through their parent.

5. And it is hereby further enacted, that no brother or sister shall be considered to inherit immediately from his or her brother or sister, but every descent from a brother or sister shall be traced through the parent.

Lineal ancestor may be heir in preference to

6. And it is hereby further enacted, that every lineal ancestor shall be capable of being heir to any of his issue, and in every case where there shall be no issue of the purchaser, his nearest lineal ancestor shall be his heir in

collateral persons claiming through him.

preference to any person who would have been entitled to inherit, either by tracing his descent through such lineal ancestor, or in consequence of there being no descendant of such lineal ancestor, so that the father shall be preferred to a brother or sister, and a more remote lineal ancestor to any of his issue, other than a nearer lineal ancestor or his issue.

The male line to be preferred.

7. And it is hereby further enacted and declared, that none of the maternal ancestors of the person from whom the descent is to be traced, nor any of their descendants, shall be capable of inheriting until all his paternal ancestors and their descendants shall have failed; and also that no female paternal ancestor of such person, nor any of her descendants, shall be capable of inheriting until all his male paternal ancestors and their descendants shall have failed; and that no female maternal ancestor of such person, or any of her descendants, shall be capable of inheriting until all his male maternal ancestors and their descendants shall have failed.

The mother of more remote male ancestor to be preferred to the mother of the less remote male ancestor.

8. And it is hereby further enacted and declared, that where there shall be a failure of male paternal ancestors of the person from whom the descent is to be traced, and their descendants, the mother of his more remote male paternal ancestors, or her descendants, shall be the heir or heirs of such person, in preference to the mother of a less remote male paternal ancestor, or her descendants; and where there shall be a failure of male maternal ancestors of such person, and their descendants, the mother of his more remote male maternal ancestor, and her descendants, shall be the heir or heirs of such person in preference to the mother of a less remote male maternal ancestor, and her descendants.

Half blood, if on the part of a male ancestor, to inherit after the whole blood of the same degree, if on the part of a female ancestor after her.

9. And it is hereby further enacted, that any person related to the person from whom the descent is to be traced by the half blood shall be capable of being his heir, and the place in which any such relation by the half blood shall stand in the order of inheritance, so as to be entitled to inherit, shall be next after any relation in the same degree of the whole blood, and his issue, where the common ancestor shall be a male, and next after the common ancestor where such common ancestor shall be a female, so that the brother of the half blood on the part of the father shall inherit next after the sisters of the whole blood on the part of the father and their issue, and the brother of the half blood on the part of the mother shall inherit next after the mother.

After the death of a person attainted, his descendants may inherit.

10. And it is hereby further enacted, that when the person from whom the descent of any land is to be traced shall have had any relation, who, having been attainted, shall have died before such descent shall have taken place, then such attainder shall not prevent any person from inheriting such land who would have been capable of inheriting the same by tracing his

descent through such relation if he had not been attainted, unless such land shall have escheated in consequence of such attainder before the first day of July one thousand eight hundred and forty.

11. And it is hereby further enacted, that this Act shall not extend to any descent which shall take place on the death of any person who shall die before the said first day of July one thousand eight hundred and forty.

Act not to extend to any descent before 1st July 1840.

12. And it is hereby further enacted, that where any assurance executed before the said first day of July one thousand eight hundred and forty, or the will of any person who shall die before that time, shall contain any limitation or gift to the heir or heirs of any person under which the person or persons answering the description of heir shall be entitled to an estate by purchase, then the person or persons who would have answered such description of heir if this Act had not been made shall become entitled by virtue of such limitation or gift, whether the person named as ancestor shall or shall not be living at the time aforesaid.

Limitations made before the 1st July 1840, to the heirs of a person then living, shall take effect as if the Act had not been made.

13. And it is hereby provided, that this Act shall not be construed to affect inheritances of land, which are not subject to the English law of inheritance, or to extend or alter the jurisdiction of any of Her Majesty's Courts of Justice.

Saving of certain inheritances and jurisdiction.

ACT No. XXXII OF 1839.

Passed on the 30th December, 1839.

An Act concerning the allowance of Interest in certain cases.

1. WHEREAS it is expedient to extend to the territories under the government of the East India Company, as well within the jurisdiction of Her Majesty's Courts as elsewhere, the provisions of the statute 3rd and 4th William IV, chapter 42, section 28, concerning the allowance of interest in certain cases:[a]

Preamble.

It is, therefore, hereby enacted, that upon all debts or sums certain payable at a certain time or otherwise, the Court before which such debts or sums may be recovered, may, if it shall think fit, allow interest to the creditor at a rate not exceeding the current rate of interest from the time when such debts or sums certain were payable, if such debts or sums be payable by virtue of some written instrument at a certain time, or if payable otherwise, then from the time when demand of payment shall have been made in writing,[b] so as such demand shall give notice to the debtor that interest will be claimed from the date of such demand until the term of payment; provided that interest shall be payable in all cases in which it is now payable by law.

Power of Court to allow interest.

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[a] See 6 Moo. I. A. 232: 7 *ib.* 263: 10 *ib.* 229.
[b] See 1 Beng. O. C. J. 41: Marshall 230.

ACT No. VI OF 1840.

Passed on the 2nd March, 1840.

An Act for the amendment of the Law concerning the negociation of Bills of Exchange.

Preamble.

1. WHEREAS it is expedient to extend to the territories under the government of the East India Company the amendments of the law respecting bills of exchange contained in the statutes 58 Geo. III, cap. 93; 1 & 2 Geo. IV, cap. 78; 6 & 7 Will. IV, cap. 58; 2 & 3 Will. IV, cap. 98;

General acceptance.

It is hereby enacted, that if any person shall accept a bill of exchange payable at any other place than at his own place of residence without further expression in his acceptance, such acceptance shall be deemed and taken to be, to all intents and purposes, a general acceptance. But if the acceptor shall, in his acceptance, express that he accepts the bill payable at such other place only, and not otherwise or elsewhere, such acceptance shall be deemed and taken to be, to all intents and purposes, a qualified acceptance of such bill, and the acceptor shall not be liable to pay such bill except in default of payment, when such payment shall have been duly demanded at such other place.

Qualified acceptance.

Acceptance insufficient unless written on bill.

2. No acceptance of any bill of exchange drawn within the territories of the East India Company, shall be sufficient to charge any person unless such acceptance be in writing on such bill, or, if there be more than one part of such bill, on one of the said parts.

Time for presenting bill of exchange accepted *supra protest* for honor.

3. It shall not be necessary to present bills of exchange accepted *supra protest* for honor, or having a reference thereon in case of need to the acceptor or acceptors for honor, or to the referee or referees, until the day following the day on which such bills of exchange shall become due, and if the place of address on any such bill of exchange of such acceptor or acceptors for honor, or of such referee or referees, be other than where such bill shall therein be made payable, then it shall not be necessary to forward such bill of exchange for presentment for payment to such acceptor or acceptors for honor, or referee or referees, until the day following the day on which such bill of exchange shall become due.

Protesting of bill payable at place other than residence of drawee.

4. All bills of exchange wherein the drawer or drawers thereof shall have expressed that such bills of exchange are to be payable in any place other than the place by him or them therein mentioned to be the place of residence of the drawee or drawees thereof, and which shall not on the presentment thereof be accepted, shall or may be, without further presentment to the drawee or drawees, protested for non-payment in the place in which

such bills of exchange shall have been by the drawer or drawers expressed to be payable, unless the amount owing upon such bills of exchange shall have been paid to the holder or holders thereof on the day on which such bill would have become payable had the same been duly accepted.

Bill not void for usury, without notice, in hands of indorsee for valuable consideration.

5. No bill of exchange or promissory note that shall be drawn or made after the passing of this Act shall, though it may have been given for a usurious consideration, or upon a usurious contract, be void in the hands of an indorsee for valuable consideration, unless such indorsee had, at the time of discounting or paying such consideration for the same, actual notice that such bill of exchange or promissory note had been originally given for a usurious consideration, or upon a usurious contract.

Saving of certain bills and jurisdiction.

6. This Act shall not be construed to extend to affect bills of exchange or promissory notes, in any case which, but for the passing of this Act, would not be governed by the law of England, or to extend or alter the jurisdiction of any of Her Majesty's Courts of Justice.

ACT No. IX OF 1840.

Passed on the 20th of April 1840.

An Act for amending the law administered in Her Majesty's Courts of Justice with reference to Arbitrations, Damages, and interested Witnesses.

* * * * * *

Power to award interest, as well as damages in certain actions.

2. The Court, on the trial of any issue, or on any inquiry of damages, in any suit before any of Her Majesty's Courts of Justice may, if it shall think fit, give damages in the nature of interest over and above the value of the goods at the time of the conversion or seizure in all actions of trover or trespass *de bonis asportatis* and over and above the money recoverable in all actions on policies of assurance made after the passing of this Act.[a]

ACT No. XXIII OF 1840.[b]

Passed on the 30th November 1840.

An Act for executing within the local limits of the jurisdiction of Her Majesty's Courts Legal Process issued by authorities in the Mofussil.

Preamble.

1. WHEREAS great inconvenience has been experienced in consequence of the difficulty of procuring the attendance as witnesses before the Mofussil authorities of persons resident within the local limits of Her Majesty's

[a] Copied from 3 & 4 Wm. IV, c. 42, s. 29.
[b] See Act VIII of 1852.

Supreme Courts, and, in consequence of justice being often frustrated by reason of persons and property within such limits being exempted from process issued by such authorities, which has also occasioned inconvenience to the inhabitants within such limits, in suits in the Mofussil Courts to which they are parties;—

Execution of Mofussil process within limits of Supreme Courts.

It is hereby enacted, that any writ, warrant, or other process issued by any Court, Judge, or Magistrate in the territories beyond the local limits of the Supreme Courts of Calcutta, Madras and Bombay respectively, may be executed within those limits in manner following:—A copy of such writ, warrant, or other process authenticated as such by the attestation of the Court, Judge, or Magistrate signing or issuing the same, accompanied by a certified translation in the English language, shall be presented to any Judge of Her Majesty's Courts, who may thereupon, under his hand and signature, indorse and direct the same to be executed within the local limits of any of Her Majesty's Courts by the Sheriff, or by any Justice of the Peace according to the nature of such writ, warrant or other process.

Procedure of Sheriff in executing process.

2. Upon the delivery of every such writ, warrant or process so indorsed as aforesaid to any such Sheriff as aforesaid, every such Sheriff shall make a memorandum of the date of such delivery, and shall execute such writ, warrant or process in like manner as if the same had originally issued from any of Her Majesty's Courts and had been delivered at the date as appearing by the memorandum; and such Sheriff shall make no distinction as to priority or otherwise between the execution of any writ, warrant or other process originally issued from any of Her Majesty's Courts, and the execution of any writ, warrant or other process, under this Act. But every writ, warrant and other process whether original, or indorsed as aforesaid, shall, amongst each other, be subject to the same rules touching the mode and order of execution as are now established in respect of writs, warrants and other process originally issued from Her Majesty's Courts of Justice.

Liability of Sheriff to be proceeded against.

3. Every such Sheriff shall be liable to be proceeded against in Her Majesty's Courts of Justice for all matters touching the execution of any writ, warrant or other process executed under this Act, in like manner as if the same had originally issued from any of Her Majesty's Courts of Justice. And all persons and property seized or detained under any writ, warrant or process executed by virtue of this Act shall be dealt with in like manner as if such persons or property had been seized or detained under the like writ, warrant or other process issued from any of Her Majesty's Courts of Justice.

Punishment of persons dis-

4. All persons disobeying or obstructing the execution of any writ, warrant or other process indorsed under this Act, shall be punishable in Her

Majesty's Courts of Justice, in like manner as if the same had issued from such Courts; provided always that, in the case of process for the attendance of witnesses, Her Majesty's Courts shall be governed by the like rules touching expenses and other matters as are established in regard to subpœnas issued from such Courts.

obeying or obstructing process.

5. In the case of persons seized or detained by virtue of any writ, warrant or other process executed under the authority of this Act by any Justice of the Peace or by any Sheriff, it shall be the duty of every such Sheriff or Justice of the Peace if so required by the indorsement of the Judge, to deliver the party in custody to such authority or persons as shall be particularly specified in such indorsement, and who shall have been charged with the execution of the writ, warrant or other process by the authority originally issuing the same, and for that purpose to cause the party in custody to be conveyed to any place within the Company's territories beyond the local limits of the jurisdiction of Her Majesty's Courts.

Duty of officer executing process as to person seized.

6. In the case of any writ, warrant or other process required to be indorsed under the authority of this Act, it shall be lawful for the Judge who shall be required to indorse the same, to remit the same for amendment to the authority issuing the same if the same shall appear to be defective in any matter of form.

Power to remit process to issuer for amendment, if defective.

7. In the case of any writ, warrant or other process required to be indorsed under the authority of this Act, for the seizure or detention of any person, it shall be lawful for the Judge who shall be required to indorse the same to direct by indorsement that bail (the amount and number of sureties to be specified in such indorsement) may be taken; and for this purpose to call for such documents and to make such enquiry as he shall think proper.

Power to direct that bail be taken.

8.[a] And whereas it is expedient, that offenders sentenced by the Mofussil authorities to imprisonment with or without hard labour, should be subjected to the most improved rules of prison-discipline, which cannot, in all cases, be conveniently done except in the prisons locally situate within the jurisdiction of Her Majesty's Supreme Courts, it is hereby enacted, that all civil and criminal gaols and houses of correction within the jurisdiction of any of Her Majesty's Supreme Courts, shall, according to the nature of the case, be liable to be used by the Sheriff for the purposes of this Act, and the parties imprisoned therein under the authority of this Act shall be liable to the prison-discipline thereof, and all sentences of imprisonment passed by any

Use of gaols within Supreme Court limits for purposes of Act,

and for execution of Mofussil sentences.

[a] This section, so far as it applies to the Bengal Division of the Presidency of Fort William, was repealed by Bengal Act II of 1864; and so far as it affects the Presidency of Fort Saint George, by Mad. Act V of 1869.

Judge, Court or Magistrate in the territories of the East India Company beyond the local limits of Her Majesty's Supreme Courts, may be executed in whole or in part within any of the gaols or houses of correction aforesaid, provided that a copy of the warrant of commitment or other process authorizing the imprisonment be so indorsed as aforesaid, and such indorsement contain the necessary directions.

ACT No. VIII OF 1841.

Passed on the 21st of June 1841.

An Act to enable Her Majesty's Supreme Courts within the Territories of the East India Company to give relief against adverse claims made upon persons having no interest in the subject of such claims.[a]

Preamble.

1. WHEREAS it often happens that a person sued at law for the recovery of money or goods wherein he has no interest, and which are also claimed of him by some third party, has no means of relieving himself from such adverse claims but by a suit in equity against the plaintiff and such third party, usually called a bill of interpleader, which is attended with expense and delay;

Powers of Court as to granting relief to person sued in certain actions for money or goods claimed by third party.

It is hereby enacted, that upon application made by or on the behalf of any defendant sued in any of Her Majesty's Supreme Courts in any action of assumpsit, debt, detinue, or trover, such application being made after declaration and before plea by affidavit or otherwise, showing that such defendant does not claim any interest in the subject-matter of the suit, but that the right thereto is claimed or supposed to belong to some third party who has sued or is expected to sue for the same, and that such defendant does not in any manner collude with such third party, but is ready to bring into Court or to pay or dispose of the subject-matter of the action in such manner as the Court (or any Judge thereof) may order or direct, it shall be lawful for the Court, or any Judge thereof, to make rules and orders calling upon such third party to appear and to state the nature and particulars of his claim, and maintain or relinquish his claim, and upon such rule or order to hear the allegations as well of such third party as of the plaintiff, and in the mean time to stay the proceedings in such action, and finally to order such third party to make himself defendant in the same or some other action, or to proceed to trial on one or more feigned issue or issues, and also to direct which of the parties shall be plaintiff or defendant on such trial, or with the consent of the plaintiff and such third party, their Counsel or attornies to dispose of the merits of their claims, and determine the same in a summary manner, and

[a] Copied from 1 & 2 Wm. IV, c. 58, ss. 1–7.

to make such other rules and orders therein as to cost and all other matters as may appear to be just and reasonable.

Finality of judgment and decision.

2. The judgment in any such action or issue as may be directed by the Court or Judge, and the decision of the Court or Judge in a summary manner, shall be final and conclusive against the parties and all persons claiming by, from, or under them.

Power of Court in case of third party who claims not prosecuting claim.

3. If such third party shall not appear upon such rule or order to maintain or relinquish his claim, being duly served therewith, or shall neglect or refuse to comply with any rule or order to be made after appearance, it shall be lawful for the Court or Judge to declare such third party, and all persons claiming by, from, or under him to be for ever barred from prosecuting his claim against the original defendant, his executors or administrators; saving nevertheless the right or claim of such third party against the plaintiff; and thereupon to make such order between such defendant and the plaintiff, as to costs or other matters, as may appear just and reasonable.

Rescission of orders made by single Judge.

4. Every order to be made in pursuance of this Act by a single Judge not sitting in open Court, shall be liable to be rescinded or altered by the Court in like manner as other orders made by a single Judge.

Reference to Court of proceedings commenced before single Judge.

5. If upon application to a Judge, in the first instance or in any later stage of the proceedings, he shall think the matter more fit for the decision of the Court, it shall be lawful for him to refer the matter to the Court, and thereupon the Court shall and may hear and dispose of the same in the same manner as if the proceeding had generally commenced by the rule of Court instead of the order of a Judge.

Power to grant relief to Sheriffs and officers executing process, in case of claims by third parties to goods against which execution issues.

6. And whereas difficulties sometimes arise in the execution of process against goods and chattels issued by or under the authority of the said Courts, by reason of claims made to such goods and chattels by assignees of bankrupts and other persons not being the parties against whom such process has issued, whereby Sheriffs and other officers are exposed to the hazard and expense of actions; and it is reasonable to afford relief and protection in such cases to such Sheriffs and other officers, it is therefore hereby further enacted, that when any such claim shall be made to any goods or chattels taken or intended to be taken in the execution under any such process or to the proceeds or value thereof, it shall and may be lawful to and for the Court from which such process issued, upon application of such Sheriff or other officers made before or after the return of such process, and as well before as after any action brought against such Sheriff or other officer, to call before them by rule of Court as well the party issuing such process as the party making such claim, and thereupon to exercise for the adjustment of such claims and the

relief and protection of the Sheriff or other officer, all or any of the powers and authorities hereinbefore contained, and make rules and decisions as shall appear to be just, according to the circumstances of the case, and the costs of all such proceedings shall be in the discretion of the Court.

Entry of record, and force, of rules, orders, &c., made under Act.

7. All rules, orders, matters and decisions to be made and done in pursuance of this Act except only the affidavits to be filed, may together with declaration in the cause if any, be entered of record with a note in the margin, expressing the true date of such entry, to the end that the same may be evidence in future times if required, and to secure and enforce the payment of costs directed by any such rule or order, and every such rule or order so entered shall have the force and effect of a judgment except only as to becoming a charge on any lands, tenements or hereditaments; and in case any costs shall not be paid within fifteen days after notice of the taxation and amount thereof given to the party ordered to pay the same, his agent or attorney, execution may issue for the same by *fieri facias*, or *capias ad satisfaciendum*, adapted to the case, together with the costs of such entry, and of the execution if by *fieri facias*, and such writ or writs may bear teste on the day of issuing the same, whether in term or vacation, and the Sheriff or other officer executing any such writ shall be entitled to the same fees, and no more as upon any similar writ grounded upon a judgment of the Court.

Costs.

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ACT No. X of 1841.[a]

Passed on the 5th July 1841.

An Act for prescribing the Rules to be observed, in order that ships or vessels belonging to ports within the territories, under the government of the East India Company, or belonging to Native Princes or States, or their subjects, may become entitled to the privileges of British ships under a proclamation of the Governor General of India in Council, made in pursuance of the Statute 3rd & 4th Victoria, ch. 56.[b]

Preamble.

1. Whereas by a statute passed in the 3rd and 4th years of Her Majesty Queen Victoria, entitled "An Act to regulate the trade of ships built and trading within the limits of the East India Company's Charter," it is enacted "that it shall be lawful for the Governor General of India in Council, by

[a] Amended by Acts XI of 1850 and IV of 1875, s. 30.

[b] See *Crawford* v. *Spooner*, 4 Moo. I. A. 179.

proclamation, to declare that all ships or vessels built or to be built within the limits of the Charter of the East India Company, being owned by Her Majesty's subjects for whom the said Governor General in Council has power to legislate, and belonging, under the regulations hereinafter provided for, to any ports in the territories under the government of the said Company, shall be deemed to be British ships for all the purposes of trade within the said limits, including the Cape of Good Hope, and the territories and dependencies thereof; provided that upon such declaration being made the said Governor General in Council shall, and the said Governor General in Council is hereby accordingly empowered to make regulations, to be enforced by suitable penalties, concerning the registering, licensing and ascertaining the admeasurement of the tonnage and burden, and generally for the trading within the limits aforesaid of such ships or vessels." And whereas it is further enacted in the same statute as follows, that is to say, "And whereas it may be expedient to admit to similar privileges and advantages any ships or vessels belonging to Native Princes or States in subordinate alliance with, or having subsidiary treaties with the East India Company, or owned by subjects of any such Princes or States, be it therefore enacted that the Governor General of India in Council may by such regulations as aforesaid, such regulations being subject as aforesaid, admit to the privileges and advantages of British ships for the purposes of trade within the limits of the Charter of the said Company, including the Cape of Good Hope, and the territories and dependencies thereof, or to any of such privileges and advantages, any ships or vessels belonging to such Princes or States, or any of them, or owned by subjects of any such Princes or States; but any such regulations shall provide for the granting to such ships or vessels fit and convenient licenses or passes, and generally for the trading within the limits aforesaid of such ships or vessels." And whereas in pursuance of such enactments it is expedient to frame such regulations as are mentioned therein the compliance with which shall be required in order that ships or vessels may be deemed British ships, or be admitted to the privileges and advantages of British ships under such proclamation as aforesaid;

Ships to be registered. Certificate of registry.

It is hereby enacted, that no ship or vessel shall be deemed a British ship under such proclamation as aforesaid (except as regards ships or vessels registered before the passing of this Act, or having a pass at the time of passing thereof) unless the person or persons claiming property therein shall have caused the same to have been registered at some one of the ports hereinafter mentioned within the territories of the East India Company, and shall have obtained a certificate of such registry from the person or persons authorized

to make such registry and grant such certificate as hereinafter directed; the form of which certificate shall be as follows:

"This is to certify, that in pursuance of the Act No. X of 1841, of the Governor General of India in Council (here insert the names and occupation and residence of subscribing owners) having made and subscribed the declaration required by the said Act and having declared that (he or they) together with (names, occupations and residence of non-subscribing owners,) (is or are) sole owner or owners, in the proportions specified on the back hereof, of the ship or vessel called the (ship's name) of (place at which the vessel shall be registered) which is of the burthen of (number of tons), and whereof (master's name) is master, and that the said ship or vessel was (when and where built) and (name and employment of surveying officer) having certified to us, that the said ship or vessel has (number) decks and (number) masts, that her (here insert the measurement as ascertained by the rules hereinafter mentioned) that she is (how rigged) rigged with a (standing or running) bowsprit, is (description of stern) sterned, (carvel or clincher) built, has (whether any or no) gallery, and (kind of head, if any) head: and the said subscribing owners having consented and agreed to the above description, the said ship or vessel called the (name) has been duly registered at the port of (name of port), certified under our hands at the custom house, in the said port of (name of port), this (date) day of (name of month) in the year (words at length).

(Signed) ——— Collector or Registrar of Shipping.

And on the back of such certificate of registry, there shall be an account of the parts or shares held by each of the owners mentioned and described in such certificate, in the form and manner following:

Names of several owners within mentioned.	*Number of shares held by each owner.*
Name	Thirty-two.
Name	Sixteen.
Name	Eight.
	&c., &c.

(Signed) ——— *Collector.*

Ports of registry.

2. The ports at which registration shall be made, shall be the ports of Calcutta, Madras, Bombay, Singapore, and such other places subordinate to the local Governments of India, as such Governments respectively may, from time to time, declare to be registering ports under this Act.[a] Provided, that ships or

[a] Rangoon and Akyab have been declared under this section. See *Calcutta Gazette* for 1854, p. 848; for 1856, p. 1549. So Kyook Phyoo, Bassien, Tavoy and Mergui—*Gazette of India*, February 11, 1871, part I. p. 75.

vessels built at any place other than any of such ports, shall be allowed to make their first voyage to any of such ports, being the ports at which it is intended they shall be registered under a certificate to be granted by the principal British officer at the place where the ship is built, or if there be no British officer in authority there, then by three merchants of such place, which certificate shall contain all the particulars with regard to the ownership and description of the ships or vessels contained in a certificate of registry, and shall specify the ports at which it is intended that they shall respectively be registered, and which certificate shall have all the effect of a certificate of registry under this Act, during the first voyage from the place of building to the ports at which the ships or vessels respectively shall be afterwards registered. Provided that such ships or vessels so proceeding on their first voyage as aforesaid shall be deemed British ships only whilst duly prosecuting such first voyage for the purpose of registry, and if they be not registered within a reasonable time after their arrival at the port of registry, the owner or owners, or master or other person having or taking the command or charge of such ship or vessel shall be liable [a] on conviction before a Justice of the Peace or a Magistrate of the first class to a penalty not exceeding 5,000 rupees.

Registrars.

3. The persons authorized to make such registry, and to grant such certificates as aforesaid, shall be the persons now authorized to make registry of ships or vessels under the statute 3 & 4 W. IV, ch. 55, and such other or different persons as the local Governments may from time to time appoint for the ports under their respective presidencies.

Book of registry.

4. At every port where registry shall be made in pursuance of this Act a book shall be kept by the registering officer in which all the particulars contained in the form of the certificate of the registry hereinbefore directed to be used shall be duly entered; and every registry shall be numbered in progression beginning such progressive numeration at the commencement of each and every year. And such registering officer shall forthwith, or within one month at the furthest, send to the Government of the Presidency to which he is subordinate a true and exact copy, together with the number of every certificate which shall be by him so granted.

Declaration.

5. No registry shall henceforth be made or certificate be granted, until the following declaration be made or subscribed before the registering officer, by the owner or major part of the owners of the ship or vessel required to be registered.

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[a] See Act No. IV of 1875, section 30.

I, *A. B.*, of (place of residence and occupation), do truly declare that the ship or vessel (name) of (port or place) whereof (master's name) is at present master, being (kind of built, burthen, *et cetera*, as described in the certificate of the surveying officer) was (when and where) built, and that I the said (*A. B.*), and the other owners (names and occupations if any and where they respectively reside) am (or are) sole owner (or owners) of the said vessel, and that no other person or persons whatever hath or have any right, title, interest, share or property therein or thereto; and that I, the said (*A. B.*), and the said other owners (if any) am (or are) truly and *bonâ fide* a subject (or subjects) of Her Majesty for whom the Governor General of India in Council has power to legislate, and that no person not being subject as aforesaid, directly or indirectly, hath any share or part interest in the said ship or vessel. Provided that if the registering officer shall see occasion to doubt the truth of any of the facts contained in the above declaration, he shall not deem such declaration to be conclusive, but may refuse the registry or certificate, and his discretion exercised in this behalf shall be subject only to an appeal to the local Government to which he is subordinate.

Further declaration by owners who attend.

6. In case the required number of joint owners of any ship or vessel shall not personally attend to make and subscribe the declaration hereinbefore directed to be made and subscribed, then and in such case such owner or owners as shall personally attend and make and subscribe the declarations aforesaid, shall further declare that the part owner or part owners of such ship or vessel then absent, is or are not resident within twenty miles of such port or place, and hath or have not to the best of his or their knowledge or belief, wilfully absented himself or themselves in order to avoid the making the declaration hereinbefore directed to be made and subscribed, or is or are prevented by illness from attending to make and subscribe the said declaration.

Measurement to be made.

7. And in order to enable the registering officer to grant a certificate truly and accurately describing every ship or vessel to be registered in pursuance of this Act, and also to enable all other officers of customs on due examination, to discover whether any such ship or vessel is the same with that for which a certificate is alleged to have been granted, it is hereby enacted, that previous to the registering or granting of any certificate of registry as aforesaid some one or more person or persons appointed by the local Governments respectively, taking to his or their assistance if he or they shall judge it necessary, one or more person or persons skilled in the building and admeasurement of ships, shall go on board of every such ship or vessel that is to be registered, and shall strictly and accurately examine and admeasure every such ship or vessel as to all and every particular contained in the form

of the certificate hereinbefore directed in the presence of the master, or of any other person who shall be appointed for that purpose on the part of the owner or owners, or in his or their absence by the said master, and shall deliver a true and just account in writing of all such particulars of the build, description, and admeasurement of every such ship or vessel as are specified in the form of the certificate above recited to the officer authorized to make such registry and grant such certificate of registry as aforesaid; and the said master or other person attending on the part of the owner or owners is hereby required to sign his name also to the certificate of such surveying or examining officer, in testimony of the truth thereof, provided such master or other person shall consent and agree to the several particulars set forth and described therein.

Rules of measurement

8. The tonnage of every ship or vessel required by law to be registered, shall, previous to her being registered, be measured and ascertained while her hold is clear, and according to the following rule; (that is to say) divide the length of the upper deck between the after part of the stem and the forepart of the sternpost into six equal parts. Depths: at the foremost, the middle, and the aftermost of those points of division, measure in feet and decimal parts of a foot the depths from the underside of the upper deck to the ceiling at the limber strake. In the case of a break in the upper deck, the depths are to be measured from a line stretched in a continuation of the deck. Breadths: divide each of those three depths into five equal parts, and measure the inside breadths at the following points, *videlicet*, at one-fifth and at four-fifths from the upper deck of the foremost and aftermost depths, and at two-fifths and four-fifths from the upper deck of the midship depth. Length: at half the midship depth measure the length of the vessel from the afterpart of the stem to the forepart of the sternpost, then to twice the midship depth add the foremost and the aftermost depths for the sum of the depths; add together the upper and lower breadths at the foremost division, three times the upper breadth and the lower breadth at the midship division, and the upper and twice the lower breadth at the after division, for the sum of the breadths; then multiply the sum of the depths by the sum of the breadths, and this product by the length, and divide the final product by three thousand five hundred, which will give the number of tons for register. If the vessel have a poop or half deck, or a break in the upper deck, measure the inside mean length, breadth and height of such part thereof as may be included within the bulk head; multiply these three measurements together and dividing the product by 92·4 the quotient will be the number of tons to be added to the result as above found. In

order to ascertain the tonnage of open vessels, the depths are to be measured from the upper edge of the upper strake.

Measurement of steam-vessels.

9. In each of the several rules hereinbefore prescribed, when applied for the purpose of ascertaining the tonnage of any ship or vessel propelled by steam, the tonnage due to the cubical contents of the engine room shall be deducted from the total tonnage of the vessel as determined by either of the rules aforesaid, and the remainder shall be deemed the true register tonnage of the said ship or vessel. The tonnage due to the cubical contents of the engine room shall be determined in the following manner; that is to say, measure the inside length of the engine room in feet and decimal parts of a foot from the foremost to the aftermost bulk-head, then multiply the said length by the depth of the ship or vessel at the midship division as aforesaid, and the product by the inside breadth at the same division at two-fifths of the depth from the deck taken as aforesaid, and divide the last product by 92·4, and the quotient shall be deemed the tonnage due to the cubical contents of the engine room.

Alterations in steam-vessels requiring new registry.

10. The tonnage due to the cubical contents of the engine room and also the length of the engine room shall be set forth in the certificate of registry as part of the description of the ship or vessel, and that any alteration of such tonnage due to the cubical contents of the engine room, or of such length of the engine room, after registry, shall be deemed to be an alteration requiring registry *de novo* within the meaning of the said Act for the registering of ships or vessels.

Measurement of laden vessels.

11. For the purpose of ascertaining the tonnage of all such ships whether belonging to the United Kingdom or otherwise, as there shall be occasion to measure while their cargoes are on board, the following rule shall be observed and is hereby established; (that is to say,) measure, first, the length on the upper deck between the afterpart of the stem and the forepart of the sternpost; secondly, the inside breadth on the underside of the upper deck at the middle point of the length; and, thirdly, the depth from the underside of the upper deck down the pump-well to the skin, multiply these three dimensions together, and divide the product by one hundred and thirty, and the quotient will be the amount of the register tonnage of such ships.

Registered tonnage to be marked.

12. The true amount of the register tonnage of every merchant ship or vessel belonging to the United Kingdom, to be ascertained according to the rule by this Act established in respect of such ships, shall be deeply carved or cut in figures of at least three inches in length on the main beam of every such ship or vessel, prior to her being registered.

13. [*Repealed by Act No. XI of* 1850, *section* 1.]

14. Whenever the tonnage of any ship or vessel shall have been ascertained according to the rules herein prescribed, such account of tonnage shall ever after be deemed the tonnage of such ship or vessel, and shall be repeated in every subsequent registry of such ship or vessel, unless it shall happen that any alteration has been made in the form of burthen of such ship or vessel, or it shall be discovered that the tonnage of such ship or vessel had been erroneously taken and computed.

Registered tonnage to be repeated in every subsequent register.

15. If such certificate as aforesaid shall be sold, lent, or otherwise disposed of to any person or persons whatever than those for whose use it is granted, or shall be made use of for the service of any other ship or vessel than the ship or vessel for which it is granted, such certificate shall thenceforth be utterly void, and the master or any owner of the ship or vessel who shall be proved to have sold, lent, or disposed of such certificate or made use of the same as aforesaid, or shall have concurred in or been privy to the committing any such offence, shall be liable upon conviction [a]before a Justice of the Peace or a Magistrate of the first class to a penalty not exceeding 10,000 rupees. And in case such ship or vessel shall be lost or taken by the enemy, burnt, or broken up, or otherwise prevented from returning to the port at which she is registered, or shall on any account have lost and forfeited the privileges of a British ship, or shall have been seized and legally condemned for illicit trading, or shall have been taken in execution for debt and sold by due process of law, or shall have been sold to the Crown or the East India Company, or shall under any circumstances have been registered *de novo*, the certificate, if preserved, shall be delivered up, within one month after the arrival of the master in any port or place in the territories of the East India Company to the registering officer at such port, in default whereof the master or any of the owners shall be liable on conviction [b]before a Justice of the Peace or a Magistrate of the first class in a penalty not exceeding 5,000 rupees. And if any person not being such subject as aforesaid shall purchase or otherwise become entitled to the whole or to any part or share of or any interest in such ship or vessel, and the same shall be within the limits of any port of the territories of the East India Company, then and in such case the certificate of registry shall within seven days after such purchase or transfer of property in such ship or vessel, be delivered up to the registering officer at such port, and if such ship or vessel shall be in any place not within the territories of the East India Company when such purchase or transfer of property shall take place, then the certificate shall be delivered up

Fraudulent use of certificate.

[a] [b] See Act No. IV of 1875, section 30.

within fourteen days after the arrival of such ship or vessel, or of the master thereof in any port of the territories of the East India Company to the registering officer at such port in default whereof the master or any of the owners shall be liable on conviction before any Justice of the Peace in a penalty not exceeding 5,000 rupees recoverable in manner provided by Act No. II of 1839.[a]

Change of master.

16. When and so often as the master of any ship or vessel registered in manner hereinbefore directed shall be changed, the master or owner of such ship or vessel shall deliver to the person or persons hereinbefore authorized to make such registry and grant such certificates of registry at the port where such change shall take place, if it be a port within the territories of the East India Company, the certificate of registry belonging to such ship or vessel, who shall thereupon indorse and subscribe a memorandum of such change, and shall forthwith give notice of the same to the proper officer of the port or place where such ship or vessel was last registered pursuant to this Act, who shall likewise make a memorandum of the same in the book of registers which is hereby directed and required to be kept, and shall forthwith give notice thereof in like manner as of the original entry. But if the change do not take place in any port within the territories of the East India Company, then such delivery, memorandum and indorsement shall be made and notice given at the first port within the territories of the East India Company at which the new master shall arrive after such change. In default of which delivery of the certificate such new master or any of the owners shall be liable on conviction before a Justice of the Peace, to a penalty not exceeding 5,000 rupees recoverable as aforesaid.

Name of ship.

17. It shall not be lawful for any owner or owners of any ship or vessel, to give any name to such ship or vessel other than that by which she was first registered in pursuance of this Act, and that the owner or owners of all and every ship or vessel which shall be so registered, shall, before such ship or vessel after such registry, shall begin to take in any cargo, paint or cause

[a] Repealed by Act XVII of 1862. Act II of 1839, section 1, enacted that "in all cases of fines by which offenders are or may be punishable by any Magistrate, according to the provisions of any Act heretofore passed or which shall hereafter be passed by the Governor General of India in Council; it shall be lawful, in case of non-payment, if no other means for enforcing the payment are or shall be provided by such Act or otherwise, for the Magistrate, by warrant under his hand, to levy the amount of such fine by distress and sale of any goods and chattels of the offender which may be found within the jurisdiction of such Magistrate, and if no such property shall be found within such jurisdiction, then it shall be lawful for every such Magistrate by warrant under his hand, to commit the offender to prison, there to be imprisoned only, or to be imprisoned and kept to hard labor, according to the discretion of such Magistrate, for any term not exceeding two calendar months, where the amount of the fine shall not exceed fifty rupees, and for any term not exceeding four calendar months, where the amount shall not exceed one hundred rupees, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid upon payment of the amount."

to be painted, in white or yellow letters of a length of not less than four inches, upon a black ground on some conspicuous part of the stern, the name by which such ship or vessel shall have been registered pursuant to this Act, and the port to which she belongs in a distinct and legible manner, and shall so keep and preserve the same, and that if such owner or owners, or master or other person having or taking the charge or command of such ship or vessel, shall permit such ship or vessel to begin to take in cargo before the name of such ship or vessel has been so painted as aforesaid, or shall wilfully alter, erase, obliterate, or in any wise hide or conceal, or cause or procure or permit the same to be done, or shall in any written or printed paper, or other document describe such ship or vessel by any name other than that by which she was first registered pursuant to this Act, or shall verbally describe, or cause or procure or permit such ship or vessel to be described by any other name to any officer or officers of revenue in the due execution of his or their duty, then and in every such case the certificate of registry shall thenceforth become utterly void, and such owner or owners, or master or other person having or taking the charge or command of such ship or vessel shall be liable [a] on conviction before a Justice of the Peace or a Magistrate of the first class to a penalty not exceeding 10,000 rupees.

Certificate of building.

18. All and every person and persons who shall apply for a certificate of the registry of any ship or vessel shall, and they are hereby required to produce to the person or persons authorized to grant such certificate, a true and full particular under the hand of the builder of such ship or vessel, or in case the want of such certificate can be satisfactorily accounted for, then to produce other sufficient evidence of the proper denomination, and of the time when and the place where such ship or vessel was built, and also an exact account of the tonnage of such ship or vessel, and shall also make and subscribe a declaration before the person or persons hereinbefore authorized to grant such certificate that the ship or vessel for which such certificate is required is the same with that which is so described by the builder as aforesaid.

Certificate lost or mislaid.

19. If the certificate of registry of any ship or vessel shall be lost or mislaid, so that the same cannot be found or obtained for the use of such ship or vessel when needful, and proof thereof shall be made to the satisfaction of the registering officer of the port at which the ship is registered, such officer shall and may, where the certificate shall have been lost or mislaid, permit such ship or vessel to be registered *de novo*, and a certificate thereof to be granted. Provided always that if such ship or vessel be absent and far

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[a] See Act No. IV of 1875, section 30.

distant from the port to which she belongs, or by reason of the absence of the owner or owners, or of any other impediment, registry of the same cannot then be made in sufficient time, such registering officer shall and may grant a license for the present use of such ship or vessel, which license shall for the time and to the extent specified therein, and no longer, be of the same force and virtue as a certificate of registry granted under this Act. Provided always that if the certificate of registry shall at any time afterwards be found, the same shall be forthwith delivered to the proper officers of customs to be cancelled, and that no illegal use be made of the same, in default whereof the original certificate and the renewed certificate and license shall thenceforth become utterly void, and any person wilfully detaining the certificate so required to be cancelled, or making any illegal use thereof, shall be liable on conviction before any Justice in a penalty not exceeding 5,000 rupees recoverable as aforesaid.

Detention of certificate.

20. And whereas it is not proper that any person under any pretence whatever should detain the certificate of registry of any ship or vessel, or hold the same for any purpose other than the lawful use and navigation of the ship or vessel for which it was granted, it is therefore hereby enacted, that in case any person who shall have received or obtained by any means or for any purpose whatever the certificate of the registry of any such ship or vessel (whether such person shall claim to be the master or to be the owner or one of the owners of such ship or vessel, or not,) shall wilfully detain and refuse to deliver up the same to the proper officers of customs, for the purposes of such ship or vessel as occasion shall require, or to the person or persons having the actual command, possession, and management of such ship or vessel as the ostensible and reputed master, or as the ostensible and reputed owner or owners thereof, it may and shall be lawful to and for any such last-mentioned person to make complaint on oath of such detainer and refusal to any Justice of the Peace residing near to the place where such detainer and refusal shall be, and on such complaint the said Justice shall and is hereby required by warrant under his hand and seal, to cause the person so complained against to be brought before him to be examined touching such detainer and refusal, and if it shall appear to the said Justice on examination of such person or otherwise the said certificate of registry is not lost or mislaid, but is wilfully detained by the said person, such person shall be subject on conviction before such Justice to a penalty not exceeding 1,000 rupees, recoverable as aforesaid, and the said Justice shall, and he is hereby required to certify the aforesaid detainer, refusal, and conviction to the person or persons who granted such certificate of registry for such ship or vessel who shall on the terms

and conditions of law being complied with make registry of such ship or vessel *de novo*, and grant a certificate thereof conformably to law, notifying on the back of such certificate the ground upon which the ship or vessel was so registered *de novo*; and if the person who shall have detained and refused to deliver up such certificate of registry as aforesaid, or shall be verily believed to have detained the same, shall have absconded so that the said warrant of the Justice cannot be executed upon him, and proof thereof shall be made to the satisfaction of the registering officer of the port at which the ship or vessel was registered, it shall be lawful for the said officer to permit such ship or vessel to be registered *de novo*, or otherwise, in his discretion, to grant a license for the present use of such ship or vessel in like manner as is hereinbefore provided in the case wherein the certificate of registry is lost or mislaid.

Registration *de novo*.

21. If any ship or vessel after she shall have been registered pursuant to the directions of this Act, shall in any manner whatever be altered so as not to correspond with all the particulars contained in the certificate of her registry, or if any alteration shall take place in the ownership of any ship or vessel, or of any share or shares thereof, in such cases such ship or vessel shall be registered *de novo* in manner hereinbefore required as soon as she returns to the port to which she belongs, or to any other port within the territories of the East India Company, on failure whereof such ship or vessel shall be deemed to be a ship or vessel not duly registered, and any person making use of a certificate for the purposes of any ship or vessel which has been granted in respect of the same, after the same ought to have been registered *de novo*, shall be liable on conviction before any Justice to a penalty not exceeding 5,000 rupees recoverable as aforesaid.

Testimony of registering officers.

22. And whereas great inconvenience may arise from the registering officers being served with subpœnas requiring them to bring with them and produce, on trials in Courts of law relative to the ownership of vessels, or otherwise the declarations required to be taken by the owners thereof prior to the registering thereof, and the books of registry, or copies or extracts therefrom. And whereas it would tend much to the dispatch of business if the attendance of such registering officers with the same upon such trials were dispensed with, it is therefore hereby enacted, that the registering officer at any port or place, and the person or persons acting for them respectively, shall, upon every reasonable request by any person or persons whomsoever, produce and exhibit for his, her, or their inspection and examination any declaration made by any such owner or owners, and also any register or entry in any book or books of registry required, and shall upon every reasonable request by

any person or persons whomsoever, permit him, her, or them to take a copy or copies, or an extract or extracts thereof respectively, and that the copy and copies of any such oath or declaration, registry or entry, shall upon being proved to be true copy or copies thereof respectively, be allowed and received as evidence upon every trial at law, without the production of the original or originals, and without the testimony or attendance of any registering officer, or other person or persons acting for them respectively, in all cases, as fully and to all intents and purposes as such original or originals if produced by any registering officer, or other person or persons acting for them, could or might legally be admitted or received in evidence.

False declaration.

Falsifying documents.

23. If any person or persons shall falsely make declaration to any of the matters hereinbefore required to be verified by declaration, or if any person or persons shall counterfeit, erase, alter, or falsify any certificate or other instrument in writing required or directed to be obtained, granted, or produced by this Act, or shall knowingly or wilfully make use of any certificate or other instrument so counterfeited, erased, altered, falsified, or shall wilfully grant such certificate or other instrument in writing knowing it to be false, such person or persons shall for every such offence be liable on conviction [a]before a Justice of the Peace or a Magistrate of the first class to a penalty not exceeding 10,000 rupees. And if any such offence be committed by the owner of any ship or vessel, the certificate of such ship or vessel shall thenceforth be wholly void.

Ships of Native States.

24. When any ship or vessel duly registered under this Act, or sailing under the British navigation law, shall come to be owned by a Native Prince or State, or by any subject of such Native Prince or State as aforesaid, it shall be lawful for the Governor of Fort William in Bengal, or for the Governor in Council of any presidency to continue to such ship or vessel the privileges and advantages of a British ship for the purposes aforesaid by a pass to be issued under the Company's seal and subscribed by a Secretary to Government, stating the voyage or voyages for which the same is to have effect, and the period for which it is to last; and it shall be lawful for the Governor of Fort William in Bengal, or the Governor in Council of any presidency, to issue a similar pass conferring the privileges and advantages of a British ship for the purposes aforesaid under this Act to any ship or vessel built within the dominions of such Native Prince or State, and owned by such Prince or State, or by any of their subjects, provided always, that the ships belonging to Native Princes or States, or their subjects, in respect of which passes

[a] See Act No. IV of 1875, section 30.

may be granted under this Act shall, during the voyage or voyages, or the period for which any such pass shall be granted be commanded by a subject of Her Majesty for whom the Governor General in Council has power to legislate.

25. The fees demandable in respect of the granting any certificate or pass under this Act shall be fixed from time to time according to the directions of the Governor General in Council, but so that the same shall not exceed the amount of fees now payable for registering or granting passes to ships or vessels at the different presidencies. Fees.

26. All ships or vessels registered under this Act, shall be deemed to belong to the ports at which they shall be respectively registered. And all ships or vessels being registered or in respect of which passes may have been granted which are unexpired at the time of passing this Act, shall for the purpose of being deemed British ships be deemed to belong to the ports at which they may have been registered or when passes shall have been granted which are unexpired, at which such passes may have been respectively granted. And such ships or vessels built and owned as required by the statute 3 & 4 Vic., ch. 56, shall continue subject to all the rules in force at the respective presidencies before the passing of this Act, touching the registering, measurement, granting passes or other requisitions in respect of the same, and shall not be subject to the provisions of this Act, or any provisions of the statute law, a compliance with which may heretofore have been necessary in order that ships or vessels built and owned as aforesaid might be deemed British ships for the purposes of trade. Ports to which ships belong.

PROCLAMATION.

The Governor General of India in Council hereby declares that all ships and vessels built or to be built within the limits of the Charter of the East India Company (as those limits are defined by the statute 3rd & 4th of Queen Victoria, cap. 56, entitled "An Act further to regulate the trade of ships built and trading within the limits of the East India Company's Charter,") being owned by Her Majesty's subjects for whom the said Governor General in Council has power to legislate and belonging under the provisions of the Act passed by the Governor General in Council No. X of 1841, to any ports in the territories under the government of the East India Company shall be deemed to be British ships for all purposes of trade within the said limits, including the Cape of Good Hope and the territories and dependencies thereof.

ACT No. XI of 1841.[a]

Passed on the 5th of July 1841.

An Act for consolidating and amending the Regulations concerning Military Courts of Requests for Native Officers and Soldiers in the Service of the East India Company.

Saving of jurisdiction under Madras and Bombay rules in small suits in military bázárs.

1. Nothing in this Act contained shall be held to alter or affect the jurisdiction of a single officer duly authorized and appointed under the rules in force in the Madras and Bombay presidencies for the trial of small suits in military bázárs at cantonments and stations occupied by the troops of those presidencies respectively, or the trial by pancháyat of suits against military persons according to the rules in force under the Madras presidency.

Jurisdiction in actions against Native soldiers, &c., vested exclusively in military Court.

2. And it is hereby enacted, subject to the aforesaid proviso, that within the territories of the East India Company actions of debt and other personal actions against Native officers, soldiers and other persons amenable to the Articles of War for the Native forces in the military service of the East India Company or residing within any station or cantonment, and carrying on any trade or business in a military bázár, shall be cognizable before a military Court and not elsewhere, provided the value in question shall not exceed 200 rupees, and the defendant was a person of the description above mentioned, when the cause of action arose, and when the suit was instituted. Provided that no suit shall be brought before any military Court under this Act to determine any dispute of caste or concerning any right to real property.

Authority to convene Court and its composition.

3. The commanding officer of any station or cantonment, or officer commanding any portion of troops in the field, is authorized to convene such military Courts. And such Courts shall be composed, according to the orders of the Commander-in-Chief for the time being of the presidency within which the station or cantonment is situate, or, in the absence of such orders, according to the discretion of the convening officer, either of not less than three European commissioned officers, or of not less than three Native commissioned officers, and, in the latter case, with an European officer of not less than five years' standing, to superintend and record the proceedings. Provided that if there be not a sufficient number of officers to constitute a Court at the station or cantonment where any cause of action may arise, or where the defendant may be residing, the suit shall be determined at the nearest station or cantonment where a military Court can be duly constituted as aforesaid.

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[a] See Acts XII of 1842 and III of 1859; Madras Act 1 of 1866, s. 9, and Bom. Act III of 1867, s. 2. See, too, 3 N. W. P. High Court Rep. (1871), pp. 70, 75.

4. Such military Courts shall be convened monthly, and shall be holden on some convenient day before the issue of the pay for each month. When to be held.

5. The forms of proceeding in every such Court shall be conformable to the usages observed on trials before Courts Martial held for the Native troops in the service of the East India Company as far as the same are applicable. And any such Court shall have the like power of summoning witnesses as is possessed by Courts Martial. Provided always, that every such Court shall have the power of examining the parties to any suit and of requiring or dispensing with their attendance at its discretion. And every such Court shall have the like power of taking the examinations of absent parties and witnesses as is possessed by the civil Courts, provided that the depositions taken under a commission issued by any military Court of Requests shall be receivable in evidence before any such Court subsequently held; Provided also that commissions may be issued by military Courts of Requests under this Act, notwithstanding the Courts to which the commissions may be directed are not situate beyond the jurisdiction of such military Courts. Forms of proceeding. Powers of Court.

6. Witnesses omitting to attend, refusing to give evidence, or committing perjury, and persons suborning witnesses to commit perjury, shall be tried and punished, if amenable to Articles of War, by a Court Martial, subject to all the rules contained in such Articles of War for the punishment of such offences in regard to trials for military offences; and if not amenable to Articles of War, they may be tried and punished in the nearest of the Courts of the East India Company for the administration of criminal justice (whether such Court have ordinarily jurisdiction over such person in criminal matters or not) in like manner as if such offences had been committed in regard to any trial before such nearest Court. Trial and punishment of witnesses.

7. Any person, civil or military, European or Native, using menacing words, signs, or gestures, or otherwise interrupting (whether being personally present or not,) the proceedings of any military Court of Requests shall be punishable, if amenable to Articles of War by a Court Martial, or if not amenable to Articles of War, in the nearest of the Courts of the East India Company for the administration of criminal justice (whether such Court have ordinarily jurisdiction over such person in criminal matters or not,) in like manner as if the offence had been committed in regard to any proceeding of the Court to which it is so referred. Trial and punishment for menace or interruption.

8. A record shall be kept of proceedings in every case tried before any military Court of Requests. And such record shall contain the substance of the evidence given and the nature of such evidence as may have been rejected on the ground of its not being legally admissible, or relevant, or Record of proceedings.

or on other grounds, and the same shall be signed by the members of the said Court. And such record or a copy thereof shall, with as little delay as is practicable, after the conclusion of the proceedings, be transmitted by the European president, or superintending officer of every such Court to the officer commanding the station or cantonment.

Limitation of recovery to 200 rupees.

9. Where a demand shall exceed the amount of 200 rupees, or where several separate demands shall exceed such amount, no more shall be recoverable from any one defendant by the same plaintiff or plaintiffs than the sum of 200 rupees only—and the judgment in respect of any demand in a Court of Requests shall be a bar to the recovery of the same demand or of any other or further demand for the same cause of action in any other Court whatever, provided that the liability accrued before the time of instituting the suit in the military Court—and it shall be competent for every such military Court to investigate any counter claim alleged by any defendant. And it shall be competent for every such military Court to allow the interest for money agreed on between the parties, provided the same does not exceed the usage of the country in ordinary money transactions. And every contract made after the passing of this Act upon which a demand for debt exceeding 20 rupees is founded, not being money due for goods bought and delivered, shall be in writing and expressed in the language of the defendant and signed by him, or on his behalf by some other person than the plaintiff.

Interest allowable.

Contracts to be in writing.

Power to proceed *ex parte.*

10. On failure of either of the parties to a suit to attend either personally or by representative, or to produce his witnesses according as he shall be required by any military Court of Requests, such Court on being satisfied that the party has been duly apprized of what is required of him, may proceed to the termination of the suit in his absence. And if the decree in any such case shall be against the plaintiff, it shall not be competent for him to commence a new suit for the same cause of action.

Return of proceedings for revision.

Reference to Commander-in-Chief.

Fresh evidence.

11. It shall be lawful for the commanding officer to whom the proceedings have been transmitted as aforesaid to return the same for revision either by the same or another military Court of Requests. And in every such case the second decree shall be final, unless for error in points of law, when the same shall be transmitted to the Commander-in-Chief, who shall have power to annul the proceedings without prejudice to any future suit. Provided always that in the case of any new trial the Court may receive evidence which was not adduced at the first trial.

Institution of claim and procedure thereupon.

12. Every plaintiff shall prefer his claim in writing and shall deliver the same to the station staff officer. The claims shall be entered in a schedule by the station staff officer, which schedule is to be sent to adjutants of corps or heads

of departments two days at least before the assembly of the Court, and the adjutants or heads of departments shall be responsible that the defendants belonging to their respective corps or establishments have been duly summoned.

13. Every decree of any military Court of Requests shall be published in the station orders before the same is executed. Publication of decree.

14. The execution of decrees of military Courts of Requests may be either general or special, according to the sentence of the Court. Provided always that the commanding officer may, notwithstanding the direction of the Court, order that the execution shall be general or special at his discretion.[a] Execution of decree.

15. In cases in which the execution is to be general, the debt if not paid forthwith, shall, under the authority of the commanding officer in writing to be signed by him, be levied by seizure and public sale of such of the debtor's goods (under which term are included houses or other erections within the limits of stations and cantonments) as may be found within the limits of the station or cantonment, or elsewhere; and if sufficient goods are not to be found, the debtor, if not a soldier, shall be arrested and imprisoned in any civil gaol near to the station or cantonment, or in any other convenient place of confinement situate within the limits of the station or cantonment, for the space of two months, unless the debt be sooner paid, and his goods, if found within the limits of the station or cantonments or elsewhere at any subsequent time, shall be liable to be seized and sold in satisfaction of the debt. And if the debtor be a soldier and the debt be not liquidated by sale of his effects, accoutrements and necessaries excepted, an order may be issued for payment of the residue by monthly deduction from the pay issued to the debtor under the rules which follow. Mode of levying debt when execution is general.

16. Where the execution is to be special, the debt shall be satisfied out of the pay and allowances of the debtor and not otherwise. And a certificate of the decree and direction or order thereon certified under the hand of the commanding officer and signed by him, shall be a sufficient authority for making such stoppages. Provided always that no more than one-half of the pay and allowances of any commissioned officer, or than one-fourth of the pay and allowances of any non-commissioned officer or soldier shall be stopped in any one month. Recovery by stoppages out of pay.

17. In places beyond the frontier of the territories of the East India Company, actions of debt and other personal actions may be brought before such military Courts as aforesaid against persons so amenable as aforesaid for any amount of demand: Provided that such military Courts beyond the frontier shall be composed of European officers—and provided, that if the amount Actions in military Courts beyond frontier.

See Act XXXIII of 1852, s. 8.

Appeal

of claim shall exceed 200 rupees an appeal shall lie to the Court of Sadr Adálat of the nearest presidency according to the rules in force [a] with regard to appeals from subordinate civil Courts.[b]

ACT No. XVIII OF 1841.

Passed on the 30th of August 1841.

An Act for consolidating and amending the enactments concerning the exportation of Military Stores.

Prohibition of export of arms, &c., without license.

1. It is hereby enacted, that arms, ammunition and military stores (with the exception of arms in the possession of individuals for private use) shall not be exported, or otherwise taken from the territories of the East India Company, without a license from a public officer or officers for each presidency, to be indicated by the Governments of the respective presidencies, for the purpose of granting such licenses, and a full compliance with all such rules and conditions as may be prescribed for the guidance of such officer or officers in regard to such exports by the aforesaid Governments respectively. And any arms, ammunition or military stores which any person shall export, or attempt to export, or take as aforesaid, contrary to this Act, shall thereby become forfeited, on the award of the officer or officers authorized as aforesaid to grant licenses, or the Collector of Customs, and every person offending in the premises contrary to this Act shall be liable, on conviction before a Magistrate, to a penalty not exceeding 500 rupees.

Forfeiture

Penalty.

2. [*Repealed by Act No. XIII of* 1852, *section* 37.]

Power to allow export without license.

3. It shall be lawful for any of the Governments aforesaid to allow at any port or ports, the exportation of arms, ammunition and military stores as aforesaid, without any such license as aforesaid, as they shall deem expedient.

ACT No. XIX OF 1841.

Passed on the 6th of September, 1841.

An Act for the protection of movable and immovable property against wrongful possession in cases of successions.

Preamble

1. Whereas much inconvenience has been experienced where persons have died possessed of movable and immovable property, and the same has been taken upon pretended claims of right by gift or succession; the difficulty of ascertaining the precise nature of the movable property in such cases, the opportunities for misappropriating such property and also the profits of real

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[a] *i. e.* 'rules for the time being in force'—See 2 N. W P. High Court Rep (1870), p. 230.
[b] See Acts XXXIII of 1852, section 8, and XII of 1868.

property, the delays of a regular suit when vexatiously protracted, and the inability of heirs when out of possession to prosecute their rights, affording strong temptations for the employment of force or fraud in order to obtain possession. And whereas, from the above causes, the circumstance of actual possession, when taken upon a succession, does not afford an indication of rightful title equal to that of a decision by a Judge after hearing all parties in a summary suit, though such summary suit may not be sufficient to prevent a party removed from possession thereby from instituting a regular suit. And whereas such summary suit, though it will take away many of the temptations which exist for assuming wrongful possession upon a succession will be too tardy a remedy for obviating them all, especially as regards movable property. And whereas it may be expedient, prior to the determination of the summary suit, to appoint a curator to take charge of property upon a succession, where there is reason to apprehend danger of misappropriation, waste or neglect, and where such appointment will, in the opinion of the authority making the same, be beneficial under all the circumstances of the case. And whereas it will be very inconvenient to interfere with successions to estates by the appointment of curators, or by summary suits, unless satisfactory grounds for such proceedings shall appear, and unless such proceedings shall be required by or on the behalf of parties giving satisfactory proof that they are likely to be materially prejudiced if left to the ordinary remedy of a regular suit:—

Person claiming right by succession to property of deceased may apply for relief against wrongful possession.

It is hereby enacted, that whenever a person dies leaving property, movable or immovable, it shall be lawful for any person claiming a right by succession thereto, or to any portion thereof, to make application to the Judge of the Court of the district where any part of the property is found or situate for relief, either after actual possession has been taken by another person, or when forcible means of seizing possession are apprehended.

Agent, &c., may apply in behalf of minor &c

2. It shall be lawful for any agent, relative, or near friend, or for the Court of Wards in cases within their cognizance, in the event of any minor, disqualified, or absent person being entitled by succession to such property as aforesaid, to make the like application for relief.

Enquiry made by Judge.

3. The Judge to whom such application shall be made shall, in the first place, enquire by the solemn declaration of the complainant, and by witnesses and documents at his discretion, whether there be strong reasons for believing that the party in possession or taking forcible means for seizing possession has no lawful title, and that the applicant, or the person on whose behalf he applies is really entitled and is likely to be materially prejudiced if left to the ordinary remedy of a regular suit, and that the application is made *bonâ fide.*

Procedure.

4. In case the Judge shall be satisfied of the existence of such strong ground of belief but not otherwise, he shall cite the party complained of, and give notice of vacant or disturbed possession by publication, and after the expiration of a reasonable time, shall determine summarily the right to possession (subject to regular suit as hereinafter mentioned) and shall deliver possession accordingly—provided always that the Judge shall have the power to appoint an officer who shall take an inventory of effects, and seal or otherwise secure the same, upon being applied to for the purpose, without delay, whether he shall have concluded the enquiry necessary for citing the party complained of or not.

Determination of right.

Appointment of officer to secure effects.

Appointment of curator pending determination of suit.

5. In case it shall further appear upon such application and examination as aforesaid that danger is to be apprehended of the misappropriation or waste of the property before the summary suit can be determined, and that the delay in obtaining security from the party in possession, or the insufficiency thereof is likely to expose the party out of possession to considerable risk, provided he be the lawful owner; it shall be lawful for the Judge to appoint one or more curators with the powers hereinafter next mentioned, whose authority shall continue according to the terms of his or their respective appointments, and in no case beyond the determination of the summary suit and the confirmation or delivery of possession in consequence thereof. Provided always that, in the case of land, the Judge may delegate to the collector or to his officer the powers of a curator, and also that every appointment of a curator in respect of any property be duly published.

Powers conferrible on curator

6. The Judge shall have power to authorize such curator, either to take possession of the property generally, or until security be given by the party in possession, or until inventories of the property shall have been made, or for any other purpose necessary for securing the property from misappropriation or waste by the party in possession. Provided always, that it shall be entirely discretionary with the Judge, whether he shall allow the party in possession to continue in such possession on giving security, or not, and any continuance in possession shall be subject to such orders as the Judge may issue touching inventories, or the securing of deeds or other effects.

Discretion to allow party in possession to continue.

Curator to give security and may receive remuneration.

7. The Judge shall exact from the curator security for the faithful discharge of his trust, and for rendering satisfactory accounts of the same as hereinafter mentioned, and may authorize him to receive out of the property such remuneration as shall appear reasonable, but in no case exceeding five per centum on the personal property and on the annual profits of the real property. All surplus monies realized by the curator shall be paid into Court, and invested in public securities for the benefit of the persons entitled thereto

Disposal of surplus

upon adjudication of the summary suit. Provided always, that although security shall be required from the curator with all reasonable despatch, and, where it is practicable, shall be taken generally to answer all cases for which the person may be afterwards appointed curator, yet no delay in the taking of security shall prevent the Judge from immediately investing the curator with the powers of his office.

Curator may be invested with powers before security is taken.

8. Where the estate of the deceased person shall consist wholly or in part of land paying revenue to Government, in all matters regarding the propriety of citing the party in possession, of appointing a curator, and of nominating individuals to that appointment, the Judge shall demand a report from the collector, and the collector is hereby required to furnish the same. In cases of urgency the Judge may proceed, in the first instance, without such report, and he shall not be obliged to act in conformity thereto, but, in case of his acting otherwise than according to such report, he shall immediately forward a statement of his reasons to the Court of Sadr Díwání Adálat, and the Court of Sadr Díwání Adálat, if they shall be dissatisfied with such reasons, shall direct the Judge to proceed conformably to the report of the collector.

Report from collector where estate includes revenue paying land.

9. The curator shall be subject to all orders of the Judge regarding the institution or the defence of suits, and all suits may be instituted or defended in the name of the curator on behalf of the estate. Provided that an express authority shall be requisite in the sanad of the curator's appointment for the collection of debts or rents; but such express authority shall enable the curator to give a full acquittance for any sums of money received by virtue thereof.

Institution and defence of suits. Authority for collection of dues.

10. Pending the custody of the property by the curator, it shall be lawful for the Judge to make such allowances to parties having a *primâ facie* right thereto as upon a summary investigation of the rights and circumstances of the parties interested he shall consider that necessity may require, taking, at his discretion, security for the repayment thereof with interest, in case the party shall, upon the adjudication of the summary suit, appear not to be entitled thereto.

Allowances to apparent owners pending custody by curator.

11. The curator shall file monthly accounts in abstract, and at the period of every three months, if his administration last so long, and upon giving up the possession of the property, file a detailed account of his administration to the satisfaction of the Judge.

Accounts to be filed by curator.

12. The accounts of any such curator as is above described shall be open to the inspection of all parties interested; and it shall be competent for any such interested party to appoint a separate person to keep a duplicate account

Inspection of accounts, and right of interested party

to keep duplicate.

Penalty for default as to accounts.

of all receipts and payments by such curator. And if it be found that the accounts of any such curator are in arrear, or if they shall be erroneous or incomplete, or if the curator shall not produce them whenever he shall be ordered to do so by the Judge, he shall be liable to a fine not exceeding one thousand rupees for every such default.

Bar to appointment of second curator for same property.

Curators of different parts of property.

Power to appoint sole curator.

13. After the Judge of any district shall have appointed any curator, such appointment shall preclude the Judge of any other district within the same presidency from appointing any other curator, provided the first appointment be in respect of the whole of the property of the deceased. But if the appointment be only in respect of a portion of the property of the deceased, this shall not preclude the appointment within the same presidency of another curator in respect of the residue or any portion thereof; provided always that no Judge shall appoint a curator or entertain a summary suit in respect of property which is the subject of a summary suit previously instituted under this Act before another Judge—and provided further, that if two or more curators be appointed by different Judges for several parts of an estate, it shall be lawful for the Sadr Díwání Adálat to make such order as it shall think fit for the appointment of one curator of the whole property.

Limitation of time for application for curator.

14. This Act shall not be put in force unless the aforesaid application to the Judge be made within six months of the decease of the proprietor, whose property is claimed by right in succession.

Bar to enforcement of Act against public settlement, or legal directions by deceased.

15. This Act shall not be put in force to contravene any public act of settlement. Neither in cases in which the deceased proprietor shall have given legal directions for the possession of his property after his decease in the event of minority or otherwise, in opposition to such directions; but, in every such case, so soon as the Judge having jurisdiction over the property of a deceased person shall be satisfied of the existence of such directions, he shall give effect thereto.

Court of Wards to be made curator in case of minors having property subject to its jurisdiction.

16. This Act shall not be put in force for the purpose of disturbing the possession of the Court of Wards of any presidency; and in case a minor, or other disqualified person whose property shall be subject to the Court of Wards, shall be the party on whose behalf application is made under this Act, the Judge, if he determines to cite the party in possession and also appoint a curator, shall invest the Court of Wards with the curatorship of the estate pending the suit without taking such security as aforesaid, and in case the minor or other disqualified person shall, upon the adjudication of the summary suit appear to be entitled to the property, possession shall be delivered to the Court of Wards.

17. Nothing in this Act contained shall be any impediment to the bringing of a regular suit either by the party whose application may have been rejected before or after citing the party in possession, or by the party who may have been evicted from the possession under this Act. Saving of right to bring regular suit.

18. The decision of the Judge upon the summary suit under this Act shall have no other effect than that of settling the actual possession; but for this purpose it shall be final, not subject to any appeal or order for review. Effect of decision on summary suit.

19. It shall be lawful for the Governments of the respective presidencies to appoint public curators for any district or number of districts. And the Judge having jurisdiction shall nominate such public curator or curators in all cases where the choice of a curator is left discretionary with him under preceding provisions of this Act. Appointment of public curators.

ACT No. XXIV OF 1841.

Passed on the 18th October, 1841.

An Act for the greater uniformity of the Law administered by Her Majesty's Supreme Courts with that administered in England, in regard to the undisposed residue of the Effects of Testators; Illusory Appointments; the transfer of Estates by persons under disabilities pursuant to the direction of Courts, and the better management of the property of such persons, and other like matters.[a]

1. [*Repealed by Act No. VIII of* 1868.]

2. The statute 11 George IV & 1 William IV, chapter 46, entitled "An Act to alter and amend the Law relating to Illusory Appointments,"[b] and Extension of 11 Geo. IV & 1 Will. IV,

[a] The whole Act, except so far as it relates to illusory appointments and infants, and except section 5, was repealed by Act VIII of 1868.

[b] 11 GEO. IV & 1 WILL. IV, CAP. XLVI.

An Act to alter and amend the Law relating to Illusory Appointments.

[16*th July* 1830.]

'Whereas, by deeds, wills, and other instruments, powers are frequently given to appoint real and personal property amongst several objects, in such manner that none of the objects can be excluded by the donee of the power from a share of such property; And whereas appointments in exercise of such powers whereby an unsubstantial, illusory, or nominal share of the property affected thereby is appointed to or left unappointed to devolve upon any one or more of the objects thereof, are invalid in equity, although the like appointments are good and binding at law: And whereas considerable inconvenience hath arisen from the rule of equity relative to such appointments, and it is expedient that such appointments should be as valid in equity as at law;' Be it therefore enacted, &c. That no appointment which from and after the passing of this Act shall be made in exercise of any power or authority to appoint any property, real or personal, amongst several objects, shall be invalid or impeached in equity, on the ground that an unsubstantial, illusory, or nominal share only shall be thereby appointed to or left unappointed to devolve upon any one or more of the objects of such power; but that every such appointment shall be valid and effectual in equity as well as at law, notwithstanding that any one or more of the objects shall not thereunder, or in default of such appointment, take more than an unsubstantial, illusory, or nominal share of the property subjected to such power. Preamble. Illusory appointments shall be valid in equity as well as at law.

caps. 46 and 65.

the statute 11 George IV & 1 William IV, chapter 65, entitled "An Act for consolidating and amending the Law relating to property belonging to infants, feme coverts, idiots, lunatics and persons of unsound mind," shall be extended to the territories of the East India Company, as far as it is applicable to the same.[b]

Not to affect any deed which declares the amount of the share;

2. Provided always, and be it further enacted, that nothing in this Act contained shall prejudice or affect any provision in any deed, will, or other instrument creating any such power as aforesaid, which shall declare the amount of the share or shares from which no object of the power shall be excluded.

nor to give any other force to any appointment than the same would have had.

3. Provided also, and be it further enacted and declared, that nothing in this Act contained shall be construed, deemed, or taken, at law or in equity, to give any other validity, force, or effect, to any appointment, than such appointment would have had if a substantial share of the property affected by the power had been thereby appointed to or left unappointed to devolve upon any object of such power.

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[b] 11 Geo. IV & 1 Will. IV, Cap. LXV.

An Act for consolidating and amending the Law relating to Property belonging to Infants, Femes Coverts, Idiots, Lunatics, and Persons of unsound Mind.

[23*rd July* 1830.]

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Guardians of minors, &c., in order to the surrender and renewal of leases may apply to the Court of Chancery, &c., and by order may surrender such leases, and renew the same, &c.

12. And be it further enacted, that in all cases where any person, being under the age of twenty-one years, ... is or shall become entitled to any lease or leases made or granted or to be made or granted for the life or lives of one or more person or persons, or for any term of years, either absolute or determinable upon the death of one or more person or persons, or otherwise, it shall be lawful for such person under the age of twenty-one years, or for his or her guardian or other person on his behalf, ... to apply to the Court of Chancery in *England*, the Courts of Equity of the Counties Palatine of Chester, Lancaster, and Durham, or the Courts of Great Session of the Principality of *Wales* respectively, as to land within their respective jurisdiction, by petition or motion in a summary way; and by the order and direction of the said Courts respectively such infant ..... or his guardian, or any person appointed in the place of such infant .... by the said Courts respectively, shall and may be enabled from time to time, by deed or deeds, to surrender such lease or leases, and accept and take, in the place and for the benefit of such person under the age of twenty-one years, ... one or more new lease or leases of the premises comprised in such lease surrendered by virtue of this Act, for and during such number of lives, or for such term or terms of years determinable upon such number of lives, or for such term or terms of years absolute, as was or were mentioned or contained in the lease or leases so surrendered at the making thereof respectively, or otherwise as the said Courts shall respectively direct.

Charges attending renewal to be charged on the estates as the Court shall direct.

14. And be it further enacted, that every sum of money and other consideration paid by any guardian, ... or other person as a fine, premium, or income, or in the nature of a fine, premium, or income, for the renewal of any such lease, and all reasonable charges incident thereto, shall be paid out of the estate or effects of the infant .... for whose benefit the lease shall be renewed, or shall be a charge upon the leasehold premises, together with interest for the same, as the said Courts and Lord Chancellor, intrusted as aforesaid, respectively shall direct and determine; and as to leases to be made upon surrenders by femes covert, unless the fine or consideration of such lease and the reasonable charges shall be otherwise paid or secured, the same, together with interest, shall be a charge upon such leasehold premises, for the benefit of the person who shall advance the same.

New leases shall be to the same uses.

15. And be it further enacted, that every lease to be renewed as aforesaid shall operate and be to the same uses, and be liable to the same trusts, charges, incumbrances, dispositions, devises, and conditions, as the lease to be from time to time surrendered as aforesaid was or would have been subject to in case such surrender had not been made.

Infants empowered to grant renewals of leases.

16. And be it further enacted, that where any person, being under the age of twenty-one years, ... might, in pursuance of any covenant or agreement, if not under disability, be compelled to renew any lease made or to be made for the life or lives of one or more person or persons, or for any term or number of years absolute or determinable on the death of one or more person or persons, it shall be lawful to and for such infant, or his guardian in the name of such infant, ... by the direction of the Court of Chancery, to be signified by an order to be made in a summary way upon the petition of such infant or his guardian, ...

3. [*Repealed by Act No. XXVII of* 1866, *section* 1.]

4. [*Repealed by Act No. VIII of* 1868.]

5. This Act shall not be construed to affect any case which would not have been governed by English law as administered by Her Majesty's Supreme Courts previous to the passing thereof, or any proceedings at law or in equity commenced before the first day of January next.

Saving of certain cases and proceedings.

ACT No. XXVI of 1841.

Passed on the 18*th October*, 1841.

An Act for extending in cases governed by English Law certain provisions of the Statute 3rd & 4th William IV, Chapter XLII, entitled "An Act for the further amendment of the Law and the better advancement of Justice."

1. Whereas there is no remedy provided in cases governed by English law for injuries to the real estate of any person deceased, committed in his life time, nor for certain wrongs done by a person deceased in his life time to another in respect of his property, real or personal; for remedy

Preamble.

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or of any person entitled to such renewal, from time to time to accept of a surrender of such lease, and to make and execute a new lease of the premises comprised in such lease, for and during such number of lives, or for such term or terms determinable upon such number of lives, or for such term or terms of years absolute, as was or were mentioned in the lease so surrendered at the making thereof, or otherwise, as the Court by such order shall direct.

17. And be it further enacted, that where any person, being an infant under the age of twenty-one years, is or shall be seized or possessed of or entitled to any land in fee or in tail, or to any leasehold land for an absolute interest, and it shall appear to the Court of Chancery to be for the benefit of such person that a lease or under-lease should be made of such estates for terms of years, for encouraging the erection of buildings thereon, or for repairing buildings actually being thereon, or the working of mines, or otherwise improving the same, or for farming or other purposes, it shall be lawful for such infant, or his guardian in the name of such infant, by the direction of the Court of Chancery, to be signified by an order to be made in a summary way upon the petition of such infant or his guardian, to make such lease of the land of such persons respectively, or any part thereof, according to his or her interest therein respectively, and to the nature of the tenure of such estates respectively, for such term or terms of years, and subject to such rents and covenants as the said Court of Chancery shall direct; but in no such case shall any fine or premium be taken, and in every such case the best rent that can be obtained, regard being had to the nature of the lease, shall be reserved upon such lease; and the leases, and covenants and provisions therein, shall be settled and approved of by a Master of the said Court, and a counterpart of every such lease shall be executed by the lessee or lessees therein to be named, and such counterparts shall be deposited for safe custody in the Master's office until such infant shall attain twenty-one, but with liberty to proper parties to have the use thereof, if required, in the mean time, for the purpose of enforcing any of the covenants therein contained; provided that no lease be made of the capital mansion house and the park and grounds respectively held therewith for any period exceeding the minority of any such infant.

Court of Chancery may authorize lease to be made of lands belonging to infants when it is to the benefit of the estate.

25. 'And whereas by an Act passed in the first year of the reign of King George the First intituled *An Act for making more effectual Her late Majesty's gracious Intentions for augmenting the Maintenance of the poor Clergy*, it was enacted, that the agreements of guardians for and on behalf of infants or idiots under their guardianship should be as good and effectual to all intents and purposes as if the said infants or idiots had been of full age and of sound mind, and had themselves entered into such agreements: And whereas it is desirable that the said powers should be exercised under proper control, and that the same should be extended to all persons against whom a commission of lunacy shall have issued;' Be it further enacted, that so much of the said Act of the first year of the reign of King George the First, as is hereinbefore recited, shall be and the same is hereby repealed.

So much of 1 G. I. C. 10. s. 9. as enacts that agreements of guardians shall bind infants, repealed.

Right of action of executors and administrators.

thereof it is hereby enacted, that an action of trespass or trespass on the case, as the case may be, may be maintained by the executors or administrators of any person deceased for any injury to the real estate of such person, committed in his life time, for which an action might have been maintained by such person, so as such injury shall have been committed within six calendar months before the death of such deceased person, and provided such action shall be brought within one year after the death of such person; and the damages when recovered, shall be part of the personal estate of such person; and further that an action of trespass or trespass on the case, as the case may be, may be maintained against the executors or administrators of any person deceased for any wrong committed by him in his life time to another in respect of his property, real or personal, so as such injury shall have been committed within six calendar months before such person's death, and so as such action shall be brought within six calendar months after such executors or administrators shall have taken upon themselves the administration of the estate and effects of such person; and the damages to be recovered in such action shall be payable in like order of administration as the simple contract debts of such person.

Liability to action of executors and administrators.

2. [*Repealed by Act No. VIII of* 1868, *section* 1.]

Action on simple contract.

3. An action of debt on simple contract shall be maintainable in any of Her Majesty's Supreme Courts against any executor or administrator.

Payment into Court, by defendant, of compensation in certain cases.

4. It shall be lawful for the defendant in all personal actions (except actions for assault and battery, false imprisonment, libel, slander, malicious arrest or prosecution, criminal conversations or debauching of the plaintiff's daughter or servant,) by leave of any of Her Majesty's Supreme Courts where such action is pending, or a Judge of any of the said Courts, to pay into Court a sum of money by way of compensation or amends, in such manner and under such regulations as to the payment of costs and the form

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Such agreements may be made by guardians with the approbation of the Court.

26. And be it further enacted, that the guardian of any infant, with the approbation of the Court of Chancery, to be signified by an order to be made on the petition of such guardian in a summary way, may enter into any agreement for or on behalf of such infant which such guardian might have entered into by virtue of the said last recited Act, if the same had not been repealed.

* * *

Court of Chancery or Exchequer may order dividends of stock belonging to infants to be applied for maintenance.

32. And be it further enacted, that it shall be lawful for the Court of Chancery, by an order to be made on the petition of the guardian of any infant in whose name any stock shall be standing, or any sum of money, by virtue of any Act for paying off any stock, and who shall be beneficially entitled thereto, or if there shall be no guardian, by an order to be made in any cause depending in the said Court, to direct all or any part of the dividends due or to become due in respect of such stocks or any such sum of money, to be paid to any guardian of such infant, or to any other person according to the discretion of such Court, for the maintenance and education or otherwise for the benefit of such infant, such guardian or other person to whom such payment shall be directed to be made being named in the order directing such payment; and the receipt of such guardian or other person for such dividends or sum of money, or any part thereof, shall be as effectual as if such infant had attained the age of twenty-one years, and had signed and given the same.

of pleading as the said Judges or such Courts respectively shall by any rules or orders by them to be from time to time made, order and direct.

5 & 6. [*Repealed by Act No. VIII of* 1868, *section* 1].

7. Every such Court as aforesaid on the trial of any issue, or on any inquisition of damages, may, if they shall think fit, give damages in the nature of interest, over and above the value of the goods at the time of the conversion or seizure, in all actions of trover or trespass *de bonis asportatis*, and over and above the money recoverable in all actions on policies of assurance made after the passing of this Act. Award of interest in certain cases.

8. In cases which would be governed by English law, it shall be lawful for the executors or administrators of any lessor or landlord to distrain upon the lands demised for any term, or at will, for the arrearages of rent due to such lessor or landlord in his life time, in like manner as such lessor or landlord might have done in his life time. Distress by executor for arrears of rent.

9. Such arrearages may be distrained for after the end or determination of such term or lease at will, in the same manner as if such term or lease had not been ended or determined; provided that such distress be made within the space of six calendar months after the determination of such term or lease, and during the continuance of the possession of the tenant from whom such arrears become due: provided also, that all and every the powers and provisions of law relating to distresses for rent shall be applicable to the distresses so made as aforesaid. Survival of right of distress after termination of lease.

ACT No. XXVII OF 1841.

Passed on the 18*th October*, 1841.

An Act for appropriating the unclaimed Dividends on Insolvent Estates.

1. WHEREAS pursuant to the orders of the Courts for the Relief of Insolvent Debtors at the several presidencies, divers sums on account of unclaimed dividends on insolvent estates have from time to time been paid over by the assignees of such insolvent estates into the hands of the Accountant General and Sub-Treasurer of the East India Company at such several presidencies with the privity of the Accountant General of the said Insolvent Courts to the credit of the persons named in the schedules as creditors of such insolvents respectively;—and whereas it is expedient that in the event of no claim being established to such unclaimed dividends or any part thereof, within a reasonable time, such dividends should be distributed among such of Preamble.

the creditors of such insolvent estates as shall have established their claims against such estates respectively;—

Distribution of dividends unclaimed for six years amongst creditors who have proved.

It is therefore enacted, that it shall be lawful for the said Courts of Insolvent Debtors respectively in the event of no claim being established to such dividends or any part thereof, within six years after any dividend shall have been so paid over, as aforesaid, to order the same to be repaid to such assignees, to be by them distributed among such of the creditors of such insolvent estates as shall have established their claims against such estates respectively, and to order such claims to be expunged from such schedules. Provided that this Act shall not affect the right of any party to be paid such dividends out of any future assets, which may come to the hands of the assignees, together with any future dividends which may be declared on such insolvent estates respectively in the event of any such claim being afterwards established.

Publication of statements of unclaimed dividends before they are distributed.

2. No such unclaimed dividend shall at any time be distributed under this Act unless a statement of such unclaimed dividends be previously published in manner following: One year at least before making any such division as aforesaid a statement shall be published three times in the English language, and also in one or more Native languages in the official gazettes of the respective presidencies, which statement shall contain the names and descriptions as contained in the schedules of all parties in respect of whose claims dividends are reserved, together with the amount of such claims respectively, and shall specify whether any former dividend or dividends have been paid in respect thereof, and whether any proof shall have at any time been made of the debt whereby any dividend may have accrued. Provided always that this Act shall not authorize the distribution of any such dividend except where no person shall at any time have substantiated any claim to the debt in respect of which such dividend may have become due.

ACT No. IX of 1842.

Passed on the 2nd of September 1842.

An Act for extending the Statute Chapter XXI. 4th & 5th of Queen Victoria in certain cases to the Territories of the East India Company[a].

Extension to India of statute 4 & 5 Vic., cap. 21.

1. It is hereby enacted, that the statute chapter XXI of the 4th & 5th years of the reign of Queen Victoria, entitled "An Act for rendering a Release as effectual for the conveyance of Freehold Estates as a Lease and

[a] See 4 Bombay H. C. Rep (O. C. J.) 76, 77.

Release by the same Parties," shall be extended to the territories of the East India Company from the first day of October next; provided always that this Act shall not be construed to affect any case which would not have been governed by the law of England before the passing of the aforesaid statute, if this Act had not passed, and provided, that every deed or instrument of release taking effect under this Act shall be expressed to be made in pursuance thereof; and it shall not be necessary that it be expressed to be made in pursuance of the statute aforesaid.

Cases saved.

Releases to be made under Act.

An Act for rendering a Release as effectual for the conveyance of Freehold Estates as a Lease and Release by the same parties.

[18*th May*, 1841.]

"WHEREAS it is expedient to lessen the expense of conveying freehold estates:" Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons, in this present Parliament assembled, and by the authority of the same, That every deed or instrument of release of a freehold estate, or deed or instrument purporting or intending to be a deed or instrument of release of a freehold estate, which shall be executed on or after the fifteenth day of May 1841, and shall be expressed to be made in pursuance of this Act, shall be as effectual for the purposes therein expressed, and shall take effect as a conveyance to uses or otherwise, and shall operate in all respects both at law and equity as if the releasing party or parties who shall have executed the same had also executed in due form a deed or instrument of bargain and sale or lease for a year for giving effect to such release, although no such deed or instrument of bargain and sale or lease for a year shall be executed, provided that every such deed or instrument so taking effect under this Act shall be chargeable with the same amount of stamp duty as any bargain and sale or lease for a year would have been chargeable with (except progressive duty) if executed to give effect to such deed or instrument, in addition to the stamp duties which such deed or instrument shall be chargeable with as a release or otherwise under any Act or Acts relating to stamp duties.

Preamble.

Release effectual though no lease for a year executed.

Stamp-duty chargeable on release.

2. "And whereas many deeds or instruments of bargain and sale or leases for a year, to give effect to deeds or instruments of release of freehold estates heretofore executed, have been lost or mislaid;" be it enacted, That where, in or by any deed or instrument of release of freehold estates executed before the fifteenth day of May 1841, any deed or instrument of bargain and sale or lease for a year for giving effect to such deed or instrument of

Recital of lease for a year in release executed before passing of Act to be evidence of execution of such lease.

release shall be recited, or by any mention thereof in such deed or instrument of release appear to have been made or executed, such recital or mention thereof shall be deemed and taken to be conclusive evidence of the deed or instrument of bargain and sale or lease for a year so recited or mentioned having been made and executed; and such deed or instrument of release shall also have the like effect as if the same had been executed after the fifteenth day of May 1841, whether such deed or instrument of bargain and sale or lease for a year shall or shall not have been lost or mislaid, or may or may not be produced: Provided always, that this Act shall not prejudice or affect any proceedings at law or in equity pending at the time of the passing of this Act, in which the validity of any bargain and sale or lease for a year shall be in question between the party claiming under such bargain and sale or lease for a year and the party claiming adversely thereto, and such bargain and sale or lease for a year if the result of such proceedings shall invalidate the same, shall not be rendered valid by this Act.

Saving of pending proceedings.

"Freehold" defined.

3. And be it enacted, that in the construction of this Act the word "Freehold" shall have not only its usual signification, but shall extend to all lands and hereditaments for the conveyance of which, if this Act had not been passed, a bargain and sale or lease for a year, as well as a release, would have been used.

ACT No. XII of 1842.[a]

Passed on the 28th of October 1842.

An Act for the better Regulation of Military Bázárs, and defining the liabilities of Camp-followers.

Unregistered bázárman barred from military Court for recovery of debts.

1. It is hereby enacted, that no person residing within the limits of any military cantonment and carrying on trade therein, or who shall have been a trader at any military cantonment, shall be allowed to recover in any military Court of Requests for the Native troops of the East India Company, held within any such cantonment, any debt contracted in the way of trade, or for the loan of money, within any such cantonment, by any person subject to the jurisdiction of such Court, unless the person seeking to recover the debt shall at the time of contracting thereof have been registered as a military bázárman within any such cantonment.

Persons subject to law as to military Courts of Requests.

2. All persons serving with any part of the army and receiving public pay in any capacity, menial servants, and other camp-followers of every de-

[a] Extended in operation by Act No. XIV of 1855. Repealed, so far as relates to the Bombay Presidency, and to the cantonments to which Bombay Act No. III of 1867 may be extended, by the latter Act.

scription, shall be subject to the provisions of Acts No. XI of 1811 and No. XXVIII of 1841, in like manner as enlisted soldiers.[a]

ACT No. V OF 1843.

Passed on the 7th of April 1843.

An Act for declaring and amending the Law regarding the condition of Slavery within the Territories of the East India Company.

1. No public officer shall in execution of any decree or order of Court, or for the enforcement of any demand of rent or revenue sell or cause to be sold any person, or the right to the compulsory labor or services of any person on the ground that such person is in a state of slavery.

Prohibition of sale of person or right to his labor on ground of slavery.

2. No rights arising out of an alleged property in the person and services of another as a slave shall be enforced by any civil or criminal Court or magistrate within the territories of the East India Company.

Bar to enforcement of rights arising out of alleged property in person as a slave.

3. No person who may have acquired property by his own industry, or by the exercise of any art, calling or profession, or by inheritance, assignment, gift or bequest shall be dispossessed of such property or prevented from taking possession thereof on the ground that such person or that the person from whom the property may have been derived was a slave.

Bar to dispossession of property on ground of owner's slavery.

4. Any act which would be a penal offence if done to a free man, shall be equally an offence if done to any person on the pretext of his being in a condition of slavery.

Penal offence against alleged slave.

ACT No. I OF 1846.[b]

Passed on the 7th January 1846.

An Act for amending the Law regarding the appointment and remuneration of Pleaders in the Courts of the East India Company.

1, 2 & 3. [*Repealed by Act No XVI of* 1874.]

4.[c] The office of pleader in the Courts of the East India Company shall be open to all persons of whatever nation or religion, provided that no person shall be admitted a pleader in any of those Courts unless he have obtained a certificate in such manner as shall be directed by the Sadr Courts that he is

Office of pleader open to all persons if duly certificated.

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[a] So far as it relates to Act XXVIII of 1841, this section is repealed by Act XVI of 1874.

[b] Amended by Act No. XXX of 1850. Repealed, as to Lower Bengal and the North-Western Provinces, and to the Provinces to which Act No. XX of 1865 may be extended, by the latter Act.

[c] Modified by Act No. XX of 1853

of good character and duly qualified for the office, any law or regulation to the contrary notwithstanding.

Right of barristers to plead in all Courts.

5. Provided that every barrister of any of Her Majesty's Courts of Justice in India, shall be entitled as such to plead in any of the Sadr Courts of the East India Company, subject however to all the rules in force in the said Sadr Courts applicable to pleaders whether relating to the language in which the Court is to be addressed or to any other matter.

Enactments to cease to have force, except for specified purpose.

6. Section 25, Regulation XXVII. 1814, of the Bengal Code, section 25, Regulation XIV. 1816, of the Madras Code, and section 52, Regulation II. 1827, of the Bombay Code, shall cease to be enforced, excepting for the purpose specified in section 7 of this Act.

Private agreement between parties and pleaders.

Calculation of pleaders' fees out of costs awarded in regular suit.

In other cases.

7. Parties employing authorized pleaders in the said Courts shall be at liberty to settle with them by private agreement the remuneration to be paid for their professional services, and it shall not be necessary to specify such agreement in the vakálatnáma; provided that when costs are awarded to a party in any regular suit, original or appeal, decided on the merits, against another party, the amount to be paid on account of fees of pleaders, shall be calculated according to the rules contained in the sections of Regulations specified in section 6 of this Act; and that when costs are awarded in other cases the amount to be paid on account of such fees shall be one-fourth of what it would have been in a regular suit decided on its merits.[a]

Enforcement of private agreements.

8. Private agreements between parties and their pleaders respecting the remuneration to be paid for professional services shall not be enforced otherwise than by a regular suit.

Partial repeal of enactments.

9. So much of section 20, Regulation XXVII. 1814, of the Bengal Code, and of section 20, Regulation XIV. 1816 of the Madras Code, as prescribes the rate of fees to be received by authorized pleaders for legal opinions, be repealed; and persons taking such opinions from authorized pleaders shall be at liberty to settle with them by private agreement the remuneration to be paid for such opinions.

Power of Sadr Amín to fine pleader.

Appeal.

10. Whenever a pleader has rendered himself liable to a fine in the Court of a Principal Sadr Amín or Sadr Amín, it shall be competent to such Principal Sadr Amín or Sadr Amín to impose such fine; provided that an appeal from all orders imposing such fines shall lie to the zila or city Judge, whose decision thereon shall be final.

Rules applied.

11. The rules applicable to pleaders in the Courts of the zila and city Judges, shall henceforth be applicable, so far as they are capable of application, to pleaders in the Munsifs' Courts.

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[a] See 7 Bom. A. C. J. 132

12. Whenever a pleader has conducted himself in such a manner in the Court of a Munsif as would have rendered him liable to a fine if he had so conducted himself in the Court of a zila or city Judge, it shall be competent to such Munsif to impose such fine; provided that an appeal from all orders imposing such fines shall lie to the zila or city Judge, whose decision thereon shall be final. Power of Munsif to fine pleader. Appeal.

13. Nothing in this Act contained shall apply to vakíls who may be employed in the Courts of the village Munsifs, or before the village or district panchâyats, or before the Collectors of zilas, under the provisions of Regulations IV, V, VII. and XII. 1816 of the Madras Code. Act not to affect certain vakíls.

ACT No. XX OF 1847.

Passed on the 18th of December, 1847.

An Act for the encouragement of learning in the Territories subject to the government of the East India Company, by defining and providing for the enforcement of the right called Copyright therein.

WHEREAS doubts may exist whether the right called copyright can be enforced by the common law of England in those parts of the territories subject to the government of the East India Company into which the common law of England has been introduced: Preamble.

And whereas doubts may exist whether the said right can be enforced by virtue of the principles of equity and good conscience in the other parts of the territories subject to the government of the East India Company:

And whereas for the encouragement of learning it is desirable that the existence of the said right should be placed beyond doubt, and that the said right should be made capable of easy enforcement in every part of the said territories:

And whereas it is doubtful whether the Act of Parliament 5 & 6 Victoria, chapter 45, entitled "*An Act to amend the Law of Copyright,*" although such Act extend to every part of the British dominions, has made appropriate and sufficient provision for the enforcement in every part of the said territories subject to the government of the East India Company of the said right by proprietors thereof: and whether the said Act of Parliament has made provision for the enforcement of the said right by or against any persons not being subject to the jurisdiction of the Courts established by Her Majesty's Charter.

1. It is therefore hereby enacted, that the copyright in every book published in the life-time of its author within the said territories after the passing Duration of copyright in book publish-

ed in author's life-time.

of the Act of Parliament 3 & 4 Wm. IV, c. 85, entitled "*An Act for effecting an arrangement with the East India Company and for the better government of His Majesty's Indian Territories till the 30th day of April,* 1854," shall endure for the natural life of such author, and for the further term of seven years commencing at the time of his death and shall be the property of such author and his assigns: Provided always, that if the said term of seven years shall expire before the end of forty-two years from the publication of such book, the copyright shall in that case endure for such period of forty-two years; and that the copyright in every book published after the death of its author and after the passing of the Act of Parliament last aforesaid shall endure for the term of forty-two years from the first publication thereof and shall be the property of the proprietor of the author's manuscript, from which such book shall be first published, and his assigns.[a]

Proprietorship.

In book published after author's death.

Proprietorship.

Power to license republication when copyright proprietor refuses.

2. And whereas it is expedient to provide against the suppression of books of importance to the public: It is enacted, that it shall be lawful for the Governor General in Council on complaint made to them that the proprietor of the copyright in any book published after the passing of this Act within the said territories, has after the death of its author refused to republish or to allow the republication of the same, and that by reason of such refusal such book may be withheld from the public, to grant a license to such complainant to publish such book in such manner and subject to such conditions as they may think fit, and it shall be lawful for such complainant to publish such book according to such license.[b]

Registry of copyright, assignments and licenses.

3. A book of registry wherein may be registered as hereinafter enacted the proprietorship in the copyright of books and assignments thereof, and licenses affecting such copyright, shall be kept in the office of the Secretary to the Government of India for the Home Department, and shall at all convenient times be opened to the inspection of any person on payment of eight annas for every entry which shall be searched for or inspected in the said book. Such officer shall whenever thereunto reasonably required, give a copy of any entry in such book certified under his hand, to any person requiring the same on payment to him of the sum of two rupees, and such copies so certified shall be received in evidence in all Courts and in all summary proceedings, and shall be *primâ facie* proof of the proprietorship or assignment of copyright or license as therein expressed, but subject to be rebutted by other evidence.[c]

Inspection.

Giving copies.

[a] From 5 & 6 Vic., c. 45, s. 3.
[b] See 5 & 6 Vic., c. 45, s. 5.
[c] „ 5 & 6 Vic., c. 45, s. 11.

4. [*Repealed by Act No. XVII of* 1862, *section* 2].

5. It shall be lawful for the proprietor of copyright in any book published, after the passing of the said Act of Parliament 3 & 4 Wm. IV, c. 85, to make entry in the registry book of the title of such book, the time of the first publication, and the name and place of abode of the publisher thereof, and the name and place of abode of the proprietor of the copyright of the said book, or of any portion of such copyright in the form in that behalf given in the schedule to this Act annexed upon payment of the sum of two rupees to the said secretary. It shall be lawful for every such registered proprietor to assign his interest or any portion of his interest therein, by making entry in the said book of registry of such assignment, and of the name and place of abode of the assignee thereof in the form given in that behalf in the said schedule on payment of the like sum; and such assignment so entered shall be effectual in law to all intents and purposes whatsoever without being subject to any stamp or duty, and shall be of the same force and effect as if such assignment had been made by deed.[a]

Copyright proprietor's right to make entries in registry.

Fee.

Assignment of copyright by entry in registry.

6. If any person shall deem himself aggrieved by any entry made under colour of this Act in the said book of registry, it shall be lawful for such person to apply by motion to the Supreme Court of Calcutta, or if the Court shall not be then sitting to any Judge of such Court sitting in chambers for an order that such entry may be expunged or varied. Upon any such application to the said Court, or to a Judge as aforesaid, such Court or Judge shall make such order for expunging, varying or confirming such entry either with or without costs, as to such Court or Judge shall seem just, and the said secretary shall on the production to him of any such order for expunging or varying any such entry expunge or vary the same according to the requisitions of such order.[b]

Application by person aggrieved by entry in registry for order to vary or expunge it.

7. If any person shall after the passing of this Act print or cause to be printed either for sale or exportation, any book in which there shall be subsisting copyright without the consent in writing of the proprietor thereof, or shall have in his possession for sale or hire any such book so unlawfully printed without such consent as aforesaid, such offender, if he shall have so offended within the local limits of the jurisdiction of any of the Courts of Judicature established by Her Majesty's charter, shall be liable to a special action on the case in such Court, and, if he shall have so offended in any other part of the territories subject to the government of the East India Company, to a suit in

Liability for infringement of copyright.

[a] 5 & 6 Vic., c. 45, s 13.
[b] 5 & 6 Vic., c. 45, s. 14.

the zila Court within the jurisdiction of which he shall have so offended, which shall and may be prosecuted in the same manner in which any other action of damages may be brought and prosecuted there, and if he shall have so offended in any such last mentioned part of the territories subject to the government of the East India Company in which there is no zila Court, to a suit in the highest local Court exercising original civil jurisdiction in such part of the said territories.[a]

Notice to be given by defendant to plaintiff in suit for infringing copyright.

8. In any suit or action brought in any of the Courts of Judicature established by Her Majesty's charter under the provisions of this Act against any person for printing any such book for sale, hire or exportation, or for selling, publishing or exposing to sale or hire, or causing to be sold, published or exposed to sale or hire, or for having in his possession for sale or hire any such book so unlawfully printed, the defendant on pleading thereto shall give to the plaintiff a notice in writing of any objections on which he means to rely on the trial of such action, and if the nature of his defence be that the plaintiff in such action was not the author or first publisher of the book in which he shall by such action claim copyright, or is not the proprietor of the copyright therein, or that some other person than the plaintiff was the author or first publisher of such book, or is the proprietor of the copyright therein, then the defendant shall specify in such notice the name of the person who he alleges to have been the author or first publisher of such book, or the proprietor of the copyright therein, together with the title of such book, and the time when and the place where such book was first published, otherwise the defendant in such action shall not at the trial or hearing of such action be allowed to give any evidence that the plaintiff in such action was not the author or first publisher of the book in which he claims such copyright as aforesaid, or that he was not the proprietor of the copyright therein, and at such trial or hearing no other objection shall be allowed to be made on behalf of such defendant than the objections stated in such notice, or that any other person was the author or first publisher of such book, or the proprietor of the copyright therein than the person specified in such notice, or give in evidence in support of his defence any other book than one substantially corresponding in title, time and place of publication with the title, time and place specified in such notice.[b]

Particulars to be stated in notice when right of plaintiff is denied.

Effect of omission.

Particulars to be stated in defendant's answer to suit.

9. In any such suit or action as last aforesaid brought in any zila Court or other local Court as aforesaid the defendant shall state in his answer all such matters as he means to rely on and which by the last preceding section

[a] See 5 & 6 Vic., c. 45. s. 15.
[b] „ 5 & 6 Vic., c. 45. s. 16.

the defendant in any suit or action brought in any of the Courts of Judicature established by Her Majesty's Charter is required to give notice of in writing, otherwise such defendant shall be subject to the same consequences for any omission in his answer as a defendant is made subject to by the last preceding section for any omission in his notice.

Effect of omission.

10. When any publisher or other person shall within the said territories before or at the time of the passing of this Act, but after the passing of the said Act of Parliament 3 & 4 Wm. IV, c. 85, have projected, conducted and carried on, or shall hereafter project, conduct or carry on, or be the proprietor of any encyclopædia, review, magazine, periodical work or work published in a series of books or parts, or any book whatsoever, and shall have employed or shall employ any persons to compose the same, or any volumes, parts, essays, articles or portions, thereof for publication in, or as part of the same, and such work, volumes, parts, essays, articles or portions shall have been, or shall hereafter be composed under such employment on the terms that copyright therein shall belong to such proprietor, projector, publisher or conductor, and paid for by such proprietor, projector, publisher or conductor, the copyright in every such encyclopædia, review, magazine, periodical work and work published in a series of books or parts, and in every volume, part, essay, article and portion so composed and paid for shall be the property of such proprietor, projector, publisher or conductor, who shall enjoy the same rights as if he were the actual author thereof and shall have such term of copyright therein as is given to the authors of books by this Act, except only that in the case of essays, articles or portions forming part of and first published in reviews, magazines or other periodical works of a like nature after the term of twenty-eight years from the first publication thereof respectively the right of publishing the same in a separate form shall revert to the author for the remainder of the term given by this Act.

Copyright in encyclopædia, review, &c.

Provided always, that during the term of twenty-eight years the said proprietor, projector, publisher or conductor shall not publish any such essay, article or portion separately or singly without the consent previously obtained of the author thereof or his assigns :

Consent of author to publication singly.

Provided also, that nothing herein contained shall alter or affect the right of any person who shall have been or shall be so employed as aforesaid to publish any such his composition in a separate form who by any contract, express or implied, may have reserved or may hereafter reserve to himself such right, but every author reserving, retaining or having such right shall be entitled to the copyright in such composition when published in a sepa-

Employee's right to publish separately.

rate form according to this Act without prejudice to the right of such proprietor, projector, publisher or conductor as aforesaid.

Rights of proprietor of copyright on making entry in registry.

11. The proprietor of the copyright in any encyclopædia, review, magazine, periodical work or other work published in a series of books or parts[a] shall be entitled to all the benefits of the registration in the office of the Secretary to the Government of India for the Home Department, under this Act, on entering in the said book of registry the title of such encyclopædia, review, periodical work or other work published in a series of books or parts, the time of the first publication of the first volume, number or part thereof, or of the first volume, number or part first published after the passing of this Act in any such work which shall have been published heretofore, and after the passing of the said Act of Parliament 3 & 4 Wm. IV, c. 85, and the name and place of abode of the proprietor thereof and of the publisher thereof when such publisher shall not also be the proprietor thereof.

Proprietorship of copies of book illegally printed.

12. All copies of any book wherein there shall be copyright, and of which entry shall have been made in the said registry book and which shall have been unlawfully printed without the consent of the registered proprietor of such copyright in writing under his hand first obtained shall be deemed to be the property of the proprietor of such copyright and who shall be registered as such, and such registered proprietor shall, after demand thereof in writing, be entitled to sue for and recover the same or damages for the detention thereof.

Right of copyright proprietor to sue for and recover copies or damages.

13. If the case be within the jurisdiction of any of the Courts of Judicature established by Her Majesty's Charter, such registered proprietor shall be entitled to sue for and recover such copies or damages for the detention thereof in an action of detinue, from any party who shall detain the same, or to sue for and recover damages for the conversion thereof in an action of trover, and if the case be within the jurisdiction of any zila Court or other local Court as aforesaid, the registered proprietor shall be entitled to sue for and recover such copies or damages for the detention or conversion thereof, in such form as is in use in the said zila or other local Courts for the recovery of specific personal property or damages for the detention or conversion thereof.

Entry in registry to be made before copyright proprietor can proceed under Act.

14. No proprietor of copyright in any book first published after the passing of the said Act of Parliament 3 & 4 Wm. IV, c. 85, shall maintain under the provisions of this Act any action or suit at law or in equity, or any summary proceeding in respect of any infringement of such copyright unless he shall before commencing such action, suit or proceeding have caused an

[a] *Roussac* v. *Thacker*, 1 Hyde 9, 12, 13.

entry to be made in the book of registry at the office of the said secretary of such book pursuant to this Act.

Provided always, that the omission to make such entry shall not affect the copyright in any book, nor the right to sue or proceed in respect of the infringement thereof except the right to sue or proceed in respect of the infringement thereof under the provisions of this Act.

Omission to make entry not to affect copyright, &c.

15. If any action or suit shall be commenced or brought in any of the Courts of Judicature established by Her Majesty's Charter against any person or persons whomsoever for doing or causing to be done anything in pursuance of this Act, the defendant or defendants in such action may plead the general issue and give the special matter in evidence; and if upon such action a verdict shall be given for the defendant or the plaintiff shall become nonsuited or discontinue his action, then the defendant shall have and recover his full costs for which he shall have the same remedy as a defendant in any case by law hath in the said last-mentioned Courts.

Plea by defendant and special evidence in actions for things done under Act.

Defendant to have full costs if successful.

16. All indictments, informations and other criminal proceedings for any offence which shall be committed against this Act shall be brought, sued and commenced within twelve calendar months next after such offence committed, or else the same shall be void and of none effect.

Limitation of criminal proceedings for breach of Act.

SCHEDULE.

No. 1.

Original Entry of Proprietorship of Copyright of a Book.

Time of making the Entry.	Title of Book.	Name of the Publisher and Place of Publication.	Name and Place of abode of the Proprietor of the Copyright.	Date of first Publication.

SCHEDULE—*continued.*

No. 2.

Form of Entry of Assignment of Copyright in any Book previously registered.

Date of Entry.	Title of Book.	Assignor of the Copyright.	Assignee of the Copyright.
	(Set out the title of the book and refer to the page of the registry book in which the original entry of the copyright thereof is made.)		

ACT No. XV OF 1848.

Passed on the 17th June 1848.

An Act to forbid trading by the Officers of the Supreme Courts.

Preamble.

FOR the better discharge of their duties by the officers of the under-mentioned Courts of Justice[a]; It is enacted as follows:—

Prohibition, in case of officers of Supreme Courts, against accepting gifts; holding certain offices; carrying on dealings.

1. No officer of any of the Courts of Judicature established by Royal Charter, within the territories subject to the government of the East India Company, or of any Court established for the relief of insolvent debtors within the said territories, shall directly or indirectly by himself, or by any other person or persons on his behalf, accept from any person or persons any gift or reward for any act or behaviour in his office other than his legal salary and fees and profits of office, or hold any office in any bank or public company, except as hereinafter excepted, or carry on or be concerned in any dealings as a banker or trader or as agent, factor, or broker either for his own advantage,

[a] See 24 & 25 Vic., c. 104, s 11.

or for the advantage of any other person or persons except such dealings as it may be part of the duty of any such officer by virtue of his office to carry on.

2. This Act shall not be construed to forbid any officer of any of the said Courts, who is also a practising advocate, attorney, solicitor or proctor in any of the said Courts, from taking the usual fees and emoluments of advocates, attorneys, solicitors or proctors, nor to apply to any advocate, attorney, solicitor, proctor, sheriff, assignee, receiver or committee, so far as he is held to be in that capacity merely for some purposes an officer of any of the said Courts. **Exemption of officers who are also advocates, &c**

3. This Act shall not be construed to forbid any officer of any of the said Courts from holding any unpaid office in any society for charitable purposes, or for the advancement of knowledge, or for the encouragement of science, art, or manufactures. **Holding unpaid office in society.**

4. Every officer of any of the said Courts who shall knowingly offend against this Act shall, on conviction thereof, be liable to be punished by deprivation of his office, and also, by the sentence of the Court before which he shall be convicted may be declared incapable, and in that case shall become incapable of being appointed to the same or any other office of the same Court, or to serve Her Majesty or the East India Company in the territories under the government of the East India Company, or in such part of the said territories as shall be specified in the sentence or in the discretion of the Court may be otherwise punished by fine or fine and imprisonment for his misdemeanour as to the Court shall seem fit, regard being had to the nature of his offence. **Punishment for contravention of Act.**

ACT No. V OF 1850.

Passed on the 8th of March 1850.

An Act for freedom of the Coasting Trade of India.

WHEREAS by an Act of Parliament passed in the thirteenth year of the reign of Her Majesty, intituled An Act to amend the laws in force for the encouragement of British Shipping and Navigation, it is enacted with regard to the Coasting Trade of India, that it shall be lawful for the Governor General of India in Council to make any regulations authorizing or permitting the conveyance of goods or passengers from one part of the possessions of the East India Company to another part thereof, in other than British ships, subject to such restrictions or regulations as he may think necessary; It is enacted as follows: **Preamble.**

1. Goods and passengers may be conveyed from one part of the territories under the government of the East India Company to another part thereof, **Freedom of ships other than British**

in coasting trade.

in other than British ships, without any restriction, other than is or shall be equally imposed on British ships, for securing payment of duties of customs or otherwise.

ACT No. IX of 1850.[a]

Passed on the 15th of March 1850.

An Act for the more easy Recovery of Small Debts and Demands in Calcutta, Madras and Bombay.

Preamble.

WHEREAS it is expedient to amend the constitution and practice, and to extend the jurisdiction, of the several Courts established at Calcutta, Madras and Bombay, for the recovery of small debts, It is enacted as follows :

Existing Courts for recovery of small debts to be held under Act.

1. The several Courts of Commissioners and of Requests, for the recovery of small debts, now holden in the towns of Calcutta, Madras and Bombay, under the authority of the Charter of Justice of King George the Second, and of two Acts of Parliament, severally passed in the thirty-seventh year and fortieth year of the reign of King George the Third, and of the regulations and proclamations made, from time to time, for constituting and for new-modelling, altering and reforming the constitution and practice of the said Courts respectively, and of Act XII. 1848, shall be holden according to the provisions of this Act, from and after such several days as shall be declared within the said towns by proclamation, to be made and published in due form of law in each of the said towns by the Governor in Council.

Interpretation of "Governor in Council" and "Supreme Court."

2. Where in this Act the words "Governor in Council," or "Supreme Court," are used, they shall be taken to apply severally to the person or persons administering the executive government, and to the Supreme Court, established under Royal Charter of each of the presidencies of Fort William in Bengal, Fort St. George and Bombay, with reference only to the Court holden under this Act, in the same presidency.

Charter and enactments repealed.

3. From and after the day declared in any such proclamation, all provisions of the said Charter of Justice, and Acts of Parliament, and of any Regulation, Act or proclamation heretofore made concerning the constitution or practice of the Court, referred to in such proclamation, shall be rescinded and repealed.

Style of Courts.

4. The style of the several Courts holden under this Act shall be the ( ) Court of Small Causes, inserting in the blank space, Calcutta, Madras or Bombay, as the case requires.

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[a] See Acts Nos. XX of 1857, and XXVI of 1864.

5. The jurisdiction of the several Courts, holden under this Act, shall extend over the whole district now within the jurisdiction thereof respectively, and over such further district as may, from time to time, be declared by proclamation of the Governor in Council: provided, that no proclamation for extending the district of any of the said Courts be made without the previous sanction of the Governor General of India in Council. Jurisdiction of Courts.

6. Every Court holden under this Act shall be a Court of Record, and shall be deemed a Court of Requests. Courts to be deemed Courts of Requests.

7. [*Repealed by Act No. XIV of* 1870.]

8. The Governor in Council shall appoint as many persons as are necessary not exceeding three to be Judges of the Court, one of whom shall be a Barrister at Law, or Advocate of one of the Supreme Courts of India, or of the Court of Session in Scotland. Appointment of Judges.

9. No Judge appointed under this Act shall, during his continuance as such Judge, practise as an advocate, attorney or vakíl in any of the Queen's Courts, or in any Court of the East India Company, or trade or traffic for his own benefit, or for the benefit of any other person, or be the partner of any person so practising, trading or trafficking. Judges not to practise or trade.

10. The Governor General of India in Council may remove any such Judge on the application of the Governor in Council. Removal of Judges.

11. Any Judge or Judges of the Supreme Court of Judicature, who shall consent to aid in the execution of this Act, may exercise all the powers of a Judge appointed under this Act, and suits may be tried by him sitting in the Supreme Court under this Act, in like manner as if he were a Judge of the Court of Small Causes,[a] and no appointment of a Judge under this Act shall be made, while it appears to the Governor in Council that the whole business of the Court can be transacted by the Judges of the Supreme Court so consenting to act. Powers of Judge of Supreme Court aiding in execution of Act.

12. The duties herein directed to be performed by the clerk and bailiffs respectively of the Court of Small Causes, shall be performed in such cases as are tried by a Judge of the Supreme Court, by such ministerial officers of the Supreme Court as shall be, from time to time, appointed by the said Judge of the Supreme Court for that purpose, and the persons so appointed shall have all the powers and protections by this Act given to the clerk and bailiffs of the Court of Small Causes respectively, and shall receive such remuneration for their services out of the fees received in the causes tried by a Judge of the Supreme Court as he shall deem reasonable, and the residue shall form part of the general fund of the Court of Small Causes. Performance of duties of clerk and bailiffs in cases tried by Supreme Court Judge. Powers and protection. Remuneration. General Fund.

[a] See 1 Mad. H. C. Rep. 204.

Appointment and removal of clerk.
Additional clerks.

13. There shall be a clerk for every Court holden under this Act, whom the Judges of the Court shall appoint, subject to the approval of the Governor in Council, and may remove, subject to the like approval: if necessary, additional clerks may be appointed with the sanction of the Governor in Council.

Duties of clerk.

14. The clerk of each Court shall issue all summonses, warrants, precepts and writs of execution, and keep an account of all proceedings of the Court, and shall take charge of, and keep, an account of all Court fees and fines payable or paid into Court, and of all monies paid into, and out of Court, and shall enter an account of all such fees, fines and monies in a book belonging to the Court, to be kept by him for that purpose, and shall monthly, or at such other times as shall be directed by the Governor in Council, submit his accounts to be audited or settled in such manner as the Governor in Council, from time to time, shall direct.

Audit of accounts.

Appointment and dismissal of bailiffs.

15. The Judges of every such Court shall, from time to time, appoint a sufficient number of persons to be bailiffs of the Court, not exceeding the number, from time to time, allowed by the Governor in Council, and may at their pleasure suspend or dismiss any bailiff so appointed.

Duties of bailiffs.

16. The bailiffs shall attend every sitting of the Court, for such time as shall be required by the Judges, and shall serve all the summonses and orders, and execute all the warrants, precepts and writs, issued out of the Court; and shall, in the execution of their duties, conform to all such general rules as shall be, from to time, made for regulating the proceedings of the Court.

Penalty on Court officers practising or trading.

17. Every clerk, or other officer of any such Court, who shall, by himself or by any partner, or in any way, directly or indirectly, be concerned or act as attorney, or vakíl, or be concerned in any trade or profession on his own account, or for any other person, shall forfeit and pay the sum of five hundred rupees to any person who shall sue for the same in the Supreme Court.

Security to be given by officers.

18. The clerk and bailiffs shall give security for such sum, and in such manner and form, as the Governor in Council, from time to time, shall order, for the due performance of their several offices, and for the due accounting for and payment of all monies received by them under this Act, or which they may become liable to pay for any misbehaviour in their office.

Fees payable in Courts.

19. There shall be payable in the Courts holden under this Act the fees set forth in the annexed schedule beside the sum of two annas in the rupee on the amount of the sum claimed, which fees shall be paid over to an account to be termed the General Fund of the Court.

General Fund.

Time for payment of fees.

20. The ratable fee or commission shall be paid by the plaintiff before the summons issues; the other fees on every proceeding shall be paid in the first

instance by the plaintiff or party on whose behalf such proceeding is to be had, on or before such proceeding: if the plaintiff recovers a less sum than he has demanded, the defendant shall not, in any case, be required to repay to him more than the fees and commission calculated upon the sum recovered. If the case is settled by agreement of the parties, before hearing, half the amount of the fees paid up to that time shall be returned to the parties by whom they have been severally paid. The Judges of the said Court may at their discretion grant summons to poor plaintiffs without deposit, or with a partial deposit of fees and commission, and also may remit costs wholly or partially to poor suitors.

Fees only on sum recovered.

Fees on settlement before hearing.

Summons to paupers.

Remission of costs.

21. The Governor in Council may, at any time, lessen the amount of the fees to be taken in the Courts holden under this Act in such manner as to him shall seem fit, and may again increase such fees, so that the scale of fees given in this Act be not in any case surpassed.

Power to reduce and raise fees within limit.

22. The Governor in Council shall, from time to time, make such rules as to him shall seem meet for securing the balances, and other sums of money in the hands of any officers of every Court holden under this Act, and for the due accounting for and application of all such balances and other sums of money.

Rules to be made for securing money in Court.

23. The Courts shall sit daily, except on Sundays, Christmas Day and Good Friday, and on Native or other holidays, which the Governor in Council shall direct the Court to observe; and each of the Judges may sit apart from the others or with either of them; at the same time or at different times; and any one or two of the said Judges so sitting apart shall have all the judicial authority, which is herein given to all the Judges.

Sitting of Courts, and of Judges.

Powers of Judges sitting apart.

24. A seal shall be made for every Court holden under this Act, under the direction of the Governor in Council, and all summons and other process issuing out of the Court shall be sealed or stamped with the seal of the Court; and every person, who shall forge the seal or any process of the Court, or who shall serve or enforce any such forged process, knowing the same to be forged, or deliver or cause to be delivered to any person any paper falsely purporting to be a copy of any summons, or other process of the said Court, knowing the same to be false, or who shall act or profess to act under any false colour or pretence of the process of the said Court, shall be guilty of felony.

Process to be sealed.

Forging seal or process, enforcing forged process, serving false summons, a felony.

25. All suits, where the debt or damage claimed or value of the property in dispute is not more than five hundred[a] rupees, whether on balance of account or otherwise, may be brought in the Court of Small Causes; and all such suits brought in the said Court shall be heard and determined in a summary way, and every defence which would be deemed good in the Supreme Court

Suits cognizable by Court.

Proceeding to be summary.

Equitable defence admissible.

[a] See Act No. XXVI of 1861, section 2.

Matters excluded from jurisdiction.

sitting as a Court of Equity shall be a good bar to any legal demand in the Court of Small Causes. Provided always, that the Court shall not have jurisdiction in any matter concerning the revenue,[a] or concerning any act ordered or done by the Governor, or Governor General, or any Member of the Council of India, or of any presidency, in his public capacity, or done by any person by order of the Governor General or Governor in Council, or concerning any act ordered or done by any Judge or judicial officer in the execution of his office, or by any person in pursuance of any judgment or order of any Court, or any such Judge or judicial officer, or in any suit for libel or slander.

Procedure on application of suitor.

26. On the application of any person desirous to bring a suit under this Act, the Clerk of the Court shall issue, under the seal of the Court a summons which shall be numbered, and shall set forth the names of the plaintiff and defendant, the cause of action with such particulars as shall be, from time to time, directed by the rules of the Court, and the amount sued for, and shall be served on the defendant, so many days before the day on which the Court shall be holden at which the cause is to be tried as shall be directed by the rules for regulating the practice of the Court; and delivery of such summons to the defendant, or in such other manner as shall be specified in the rules of practice, shall be deemed good service; and no misnomer or inaccurate description of any person or place in any such summons shall vitiate the same, if the person or place be therein described so as to be commonly known.

Good service of summons.

Summons not vitiated by misnomer.

Power to amend statement of cause of action.

27. No misstatement of the cause of action in the summons issued under this Act shall vitiate the same, and the Judges of the Court may, in their discretion, rectify such misstatement as soon as discovered, and alter the record accordingly; and if the defendant, or one of the defendants be present in Court at the time of such discovery, the hearing of the cause after the record shall have been so altered, shall be proceeded with as if no such misstatement had happened, but in the absence of the defendant or of all the defendants a new summons of the same number and date as the original summons shall be issued with the altered statement of the cause of action.

Hearing to proceed if defendant present.

New summons.

Persons subject to jurisdiction.

28. All persons shall be deemed within the jurisdiction of the Court, who dwell or carry on their business or work for gain within the district of the Court at the time of bringing the action, or who did so dwell or carry on their business or work therein at the time when the cause of action arose, or within six months before the time of bringing the action for causes of action which arose within the same time.

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[a] 5 Bomb. H. C. Rep. (O. C. J.) 1.

29. Any summons or other process of any of the said Courts, service of which is needed out of the district of the Court, may be exhibited in any Court of law, or before any Magistrate, and shall be thereupon endorsed by the Magistrate or Judge of such Court; and, when so endorsed, may be served in like manner as any order or process from such Court or Magistrate; and such service shall be as valid as if the same had been made by the bailiff of the Court out of which such summons or other process shall have issued within the jurisdiction of the Court for which he acts.

Service of process out of Court district.

30. Service of any summons or other process of the Court, which shall require to be served out of the district of the Court, may be proved by affidavit, or solemn affirmation, purporting to be sworn or made before any Judge or Magistrate; and, in every case of the unavoidable absence of the bailiff by whom any summons or other process of the Court has been served, the service of such summons or other process may be proved, if the Judges think fit, in the same manner as a summons served out of the district of the Court.

Proof of service out of district, or in absence of serving bailiff.

31. Any minor may prosecute a suit in any Court holden under this Act for any sum of money not greater than five hundred rupees, which may be due to him for wages or piecework, or for work as a servant, in the same manner as if he were of full age.

Suits which minors may prosecute.

32. The jurisdiction of the Court shall extend to the recovery of any demand, not exceeding the sum of five hundred rupees, which is the whole or part of the unliquidated balance of a partnership account, or the amount or part of the amount of a distributive share under an intestacy, or of any legacy under a will.[a]

Jurisdiction in partnership and other causes.

33. Any executor or administrator may sue and be sued in any Court holden under this Act, in like manner as if he were a party in his own right; and judgment and execution shall be such as in the like case would be given or issued in the Supreme Court in the like case: but no executor or administrator shall be summoned in that capacity within six months after the death of the person whose executor or administrator he is.

Suits by and against executors and administrators.

34. A plaintiff shall not be allowed to divide any cause of action, for the sake of bringing two or more suits in any of the said Courts[b]; but any plaintiff, having cause of action for more than five hundred rupees, may abandon the excess, which shall be entered in the record, and stated in the summons, and thereupon the plaintiff shall, on proving his case, recover to an amount not exceeding five hundred rupees; and the judgment of the Court

Bar to dividing cause of action.

Suit with abandonment of excess.

[a] 9 Bomb. H. C. Rep. 339: 18 Beng. 142.

[b] 6 Bomb. O. C. J. 88: see 9 & 10 Vic., c. 95, s. 93.

shall be in full discharge of all demands in respect of such cause of action; and entry of the judgment shall be made accordingly.

Exemptions from arrest or imprisonment by process of Court.

35. The Governor General and Members of the Supreme Council of India, the Governors and Members of Council of the Presidencies of Fort William in Bengal, Fort St. George and Bombay respectively, and the Chief Justices and Judges of the several Supreme Courts established therein by Royal Charter, shall not be liable to arrest or imprisonment by process issuing out of any Court holden under this Act, and no writ or process shall be sued out of the said Court against any of the persons privileged by[a] Act XVIII. 1848, without the consent of the Governor in Council.

Privileged persons.

Recovery from one or more of several persons jointly liable.

36. Where any plaintiff shall have any demand recoverable under this Act, whether founded on contract or wrong, against two or more persons jointly answerable, it shall be sufficient if any of such persons be served with process, and judgment may be obtained and execution issued against the person or persons so served, notwithstanding that others, jointly liable, may not have been served or sued, or may not be within the jurisdiction of the Court; and every such person against whom judgment shall have been obtained under this Act, and who shall have satisfied such judgment, shall be entitled to demand and recover in the Court, holden under this Act, contribution from any other person jointly liable with him; and in all cases of misjoinder of defendants, the Judges may order the suit to proceed against such of the defendants only against whom cause of action appears, and may give judgment against them only; giving also judgment for costs for the defendants improperly joined.

Right of judgment-debtor to recover contribution from joint debtors.

Misjoinder of defendants.

Questions determinable in cases within jurisdiction.

37. The Judges of the Court shall be empowered to determine all questions as well of fact as of law or equity, as administered in the Supreme Court,[b] in all cases which they have authority to try.

Trial and judgment.

38. On the day in that behalf named in the summons, the plaintiff shall appear, and thereupon the defendant shall be required to appear to answer, and on answer being made in Court, the Judges shall proceed in a summary way to try the cause, and give judgment, without further pleading or formal joinder of issue.

Set-off by defendant of cause of action against plaintiff.

39. A defendant, having any cause of action against the plaintiff, whether or not the same exceeds five hundred rupees, shall be entitled to set the same against the plaintiff's demand, and if judgment is given in such case for the plaintiff, shall be entitled to sue the plaintiff for the balance only

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[a] See Act No. VIII of 1868.

[b] *i. e.*, as administered in the High Court at the time of the suit, 14 Beng 76, 82.

of his original demand, after deducting the amount of debt or damages and costs recovered against him under this Act.

40. The Judges may, in any case, with the consent of both parties to the suit, order the same, with or without other matters within the jurisdiction of the Court in dispute between such parties, to be referred to arbitration, to such person or persons, and in such manner, and on such terms as they shall think reasonable and just; and such reference shall not be revocable by either party, except by consent of the Judges; and the award of the arbitrator or arbitrators or umpire shall be entered as the judgment in the cause, and shall be as binding and effectual to all intents, as if given by the Judges; provided, that the Judges may, if they think fit, on application to them at the first Court held after the expiration of one week, after the entry of such award, set aside any such award, or may, with the consent of both parties, revoke the reference, or order another reference to be made in the manner aforesaid.

Power to refer to arbitration.

Revocation of reference.

Award.

Setting aside award.

41. The Judges of each Court, holden under this Act, subject to the approval of the Judges of the Supreme Court, shall have power to make and issue all the general rules for regulating the practice and proceedings of the Court, and also to frame forms for every proceeding in the Court for which they shall think it necessary that a form be provided, and also for keeping all books, entries and accounts to be kept by the Clerk of the Court, and, from time to time, to alter any such rule or form; and the rules so made and the forms so framed, shall be observed and used in the Court of that presidency, and shall be sent to the Supreme Court for approval, but shall be of force until disapproved; and in any case, not expressly provided for herein, or by the said rules, the general principles of practice in the Supreme Court may be adopted and applied, at the discretion of the Judges, to actions and proceedings in their Court.

Power to make and alter rules of practice;

forms, and

rules for keeping books and accounts.

42. If, upon the day of the return of any summons, or at any continuation or adjournment of the said Court, or of the cause for which the said summons shall have been issued, the plaintiff shall not appear,[a] the cause shall be struck out; and if he shall appear, but shall not make proof of his demand to the satisfaction of the Court, the Judges may nonsuit the plaintiff, or give judgment for the defendant; and, in either case, where the defendant shall appear and shall not admit the demand, may award to the defendant, by way of costs and satisfaction for his trouble and attendance, such sum as they, in their discretion, shall think fit; and such

Effect of plaintiff failing to appear or to prove claim.

Compensation to defendant.

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[a] *i. e.*, by himself or by such other person as may by the rules of the Court appear for a party, 4 Bomb. O. C J 119.

sum shall be recoverable from the plaintiff by such ways and means as any debt or damage ordered to be paid by the same Court can be recovered: provided always, that if the plaintiff shall not appear when called upon, and the defendant, or some one duly authorized on his behalf, shall appear, and admit the cause of action to the full amount claimed, and pay the fees payable in the first instance by the plaintiff, the Court, if it shall think fit, may proceed to give judgment, as if the plaintiff had appeared.

Judgment on defendant's admission.

Procedure on defendant failing to appear.

43. If on the day so named in the summons, or at any continuation or adjournment of the Court, or cause in which the summons was issued, the defendant shall not appear or sufficiently excuse his absence, or shall neglect to answer when called in Court, the Judges, upon due proof of service of the summons, may issue a writ of attachment to compel the appearance of the defendant; or, in their discretion, may proceed to the hearing or trial of the cause on the part of the plaintiff only; and the judgment thereupon shall be as valid as if both parties had attended; provided always, that the Judges in any such case, at the same or any subsequent Court, may set aside any judgment so given in the absence of the defendant, and the execution thereupon; and may grant new trial of the cause, upon such terms, as to payment of costs, giving security for debt or costs, or otherwise, as they think fit, on sufficient cause shown to them for that purpose.

Trial ex parte.

Setting aside judgment given in defendant's absence.

New trial.

Granting time to parties.

44. The Judges may, in any case, make orders for granting time to the plaintiff or defendant to proceed in the prosecution or defence of the suit, and also may, from time to time, adjourn any Court or the hearing or further hearing of any cause, in such manner as to them may seem fit.

Adjournment.

Payment into Court in satisfaction of demand.

45. The defendant in any action brought under this Act, for the recovery of money, whether for debt or damages, within such time as shall be directed by the rules for regulating the practice of the Court, may pay into Court such sum of money as he shall think a full satisfaction for the demand of the plaintiff, with the costs incurred by the plaintiff up to the time of such payment; and the said sum of money shall be paid to the plaintiff; but, if he shall elect to proceed, and, if the plaintiff shall recover no further sum in the action than shall have been so paid into Court, the plaintiff shall pay to the defendant the costs incurred by him in the said action after such payment; and such costs shall be settled by the Court, and an order shall thereupon be made by the Court for the payment of such costs by the plaintiff.

Effect of plaintiff failing to recover more than sum paid in.

Persons who may be examined.

46. On the hearing or trial of any action or any other proceeding under this Act the parties thereto, their wives, and all other persons, may be examined, on behalf of either the plaintiff or defendant, subject nevertheless to the Acts and Regulations in force, with respect to the examination of women

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of a rank and situation in life, which, according to the customs of the country, would render it improper to compel them to appear in a Court of Justice.

Examination on oath or affirmation. Penalty for false evidence.

47. Every person shall be examined on oath, or when exempt by law from taking an oath in any Court of Justice, on solemn affirmation, and every person, who, in any examination upon oath or solemn affirmation under this Act, shall wilfully and corruptly give false evidence, shall be deemed guilty of perjury.

Summonses to witnesses.

48. Either of the parties to the suit or any other proceeding under this Act may obtain, at the office of the Clerk of the Court, summonses to witnesses, with or without a clause requiring the production of books, deeds, papers and writings in their possession or control, and in any such summons any number of names may be inserted.

Penalty for default by persons summoned, by persons present. Indemnifying party injured.

49. Every person, on whom any such summons shall have been served, either personally or in such other manner as shall be directed by the general rules or practice of the Court, and who shall refuse or neglect, without sufficient cause, to appear, or to produce any books, papers or writings required by such summons to be produced, and also every person present in Court, who shall be required to give evidence, and who shall refuse to be sworn and give evidence, shall forfeit and pay such fine, not exceeding one hundred rupees, as the Judges shall set on him; and the whole or any part of such fine, in the discretion of the Judges, after deducting the costs, may be applied towards indemnifying the party injured by such refusal or neglect.

Cases in which warrant may be issued.

50. The Judges of any Court established under this Act, in all suits where the debt or demand exceeds the sum of thirty rupees, upon proof before them, that any defendant against whom a summons has been taken out, conceals himself from, or otherwise evades process of the Court, or is disposing of his property and effects with intent to defraud the plaintiff, or his creditors generally, or is about to withdraw his person or effects from the jurisdiction of the Court, may issue a warrant for the apprehension of such person, and may commit him to gaol until he shall find security for his appearance in the said Court from time to time, until judgment shall be pronounced in the suit commenced by such summons, and for payment of the amount and the costs which may be decreed against him therein.

Enforcement of payment of fines.

51. Payment of any fine imposed by any Court under the authority of this Act may be enforced upon the order of the Judges, in like manner as payment of any debt adjudged in the said Court, and shall be accounted for as herein provided.

Adjudication of costs not

52. All the costs of any action or proceeding in the Court, not herein otherwise provided for, shall be paid by or apportioned between the parties,

otherwise provided for.

Issue of execution for recovery.

in such manner as the Judges shall think fit; and, in default of any special direction, shall abide the event of the action; and execution may issue for the recovery of any such costs, in like manner as for any debt adjudged in the said Court.

Finality of orders and judgments.

Power to nonsuit,

or order new trial.

53. Every order and judgment of any Court holden under this Act, except as herein provided, shall be final and conclusive between the parties; but the Judges shall have power to nonsuit the plaintiff, in every case in which satisfactory proof shall not be given to them, entitling either the plaintiff or defendant to the judgment of the Court; and shall also in every case whatever have the power, if they shall think fit, to order a new trial to be had, upon such terms as they shall think reasonable, and in the meantime to stay the proceedings.

Removal of causes to Supreme Court.

54. No cause commenced in any Court, holden under this Act, shall be removed from the said Court into the Supreme Court[a] by any writ or process, unless the debt or damage or value of the property claimed exceeds one hundred rupees, and then only by leave of a Judge of the said Supreme Court on proof to his satisfaction that some question of law or equity is likely to arise therein, which, by reason either of its difficulty, novelty or general importance, or of some erroneous course of decision on the same point in the Court of Small Causes may appear to him fit to be tried in the Supreme Court, and upon such terms as to payment of costs, giving security for debt or costs, or otherwise, as he shall think fit.

Reserving questions for opinion of Supreme Court.

Judgment contingent thereupon.

Questions to be referred.

55. The Judges of the Court of Small Causes may, in their discretion, reserve any question of law or equity on which they entertain doubts, or which they shall be requested by either party to the suit to reserve, for the opinion of the Judges of the Supreme Court, and shall give judgment contingent upon the opinion of the said Supreme Court on a case which they shall thereupon be entitled to state to the said Court. If only two Judges sit together, and shall differ in opinion, the question on which they differ shall be so referred.[b]

Orders as to time of payment, and instalments.

56. The Judges may make orders concerning the time or times, and by what instalments, any debt or damages or costs, for which judgment shall be obtained in the said Court, shall be paid; and all such monies shall be paid into Court, unless the Judges shall otherwise order.

Execution in case of cross judgment.

57. If there be cross judgments between the parties, execution shall be taken out by that party only, who shall have obtained judgment for the larger sum, and for so much only as shall remain after deducting the smaller

[a] 24 & 25 Vic., c 104, s. 11: 8 Bomb O. C. J. 62.

[b] 5 Beng 500.

sum; and satisfaction for the remainder shall be entered, as well as satisfaction on the judgment for the smaller sum; and, if both sums shall be equal, satisfaction shall be entered upon both judgments.

Entry of satisfaction.

58. Whenever the Court shall have made an order for the payment of money, the amount shall be recoverable, in case of default or failure of payment thereof forthwith, or at the time or times and in the manner directed, by execution against the body or the goods and chattels[a] of the person against whom such order is made without further notice or order; and the clerk of the said Court, at the request of the person prosecuting such order, shall issue under the seal of the Court a writ of execution to one of the bailiffs of the Court, which shall be his warrant to take the body of such person in execution, or to levy, or cause to be levied, by distress and sale of the goods and chattels of such person such sum of money as shall be so ordered, wheresoever they may be found within the district of the Court, and also the costs of the execution; and all constables and other peace officers within their several jurisdictions shall aid in the execution of every such writ.

Procedure for recovery in case of non-payment according to order of Court.

Assistance of peace officers.

59. If the Court shall have made any order for payment of any sum of money by instalments, execution upon such order shall not issue until after default in payment of some instalment according to such order; and execution or successive executions may then issue without further notice or order for the whole of the said sum of money and costs then remaining unpaid, or for such portion thereof as the Court shall order, either at the time of making the original order, or at any subsequent time under the seal of the Court.

Execution in case of order for payment by instalments.

60. Whenever any warrant shall issue for taking in execution the body of any person under this Act, the bailiffs of the Court shall be empowered, by virtue thereof, to take and convey him to any prison, appointed by the Governor in Council to be the prison of the Court, there to remain for such term as shall be directed by the warrant, not longer than six calendar months, or until he shall sooner perform the order of the Court.

Powers of bailiff under warrant against person.

61. No person shall be imprisoned twice under the same judgment, nor shall execution against the body and goods issue at the same time under the same judgment.

Bar as to imprisonment and execution.

62. Every person suing out a warrant of execution against the body of any other person under this Act shall deposit with the Clerk of the Court, at the time of the issue of the warrant, diet-money for one week, after the [b]rate of one anna and a half for each day, which shall be paid by the clerk to the keeper of the prison at the time of the execution of the warrant.

Deposit of diet-money on issue of warrant against person.

[a] As to tiled huts, see 6 Beng. 448: 14 Beng. 207.

[b] See Act No. XX of 1857 Bom. Act No. VI of 1864, s. 2.

Notice of execution to person suing out warrant.

63. Notice of the execution of every such warrant shall be forthwith given to the person at whose suit it issued, who shall thereupon deposit with the keeper of the prison, diet-money for the remainder of the month in which the warrant is executed, after the same daily rate, and shall continue thereafter to deposit monthly with the said keeper, in advance, diet-money at the same daily rate, for each month which the debtor is liable to be kept in prison at his suit.

Further deposit of diet-money.

Application of diet-money. Effect of failure to deposit.

64. The diet-money shall be employed for the subsistence of the prisoner; and if, by default of the detaining creditor, such diet-money is not paid, the prisoner shall be entitled to his discharge by order of the Court.

Diet-money spent included in costs. Refund to creditor.

65. All diet-money, which shall be spent in providing subsistence for any prisoner, shall be costs in the cause, and all diet-money, which shall not be so spent, shall be repaid to the creditor advancing the same.

Discharge of prisoner on sufficient security.

66. Whenever any prisoner shall offer good and reasonable security for payment of any debt or damage and costs, either in full or by instalments as the Court shall think reasonable, the Court may order him to be discharged on giving such security.

Discharge on payment.

67. Upon payment of the debt or damage and costs in full, the prisoner shall be entitled to be forthwith discharged.

Imprisonment not to extinguish liability. Liability of property to be taken in execution.

68. If the debt or damage and costs are not paid, the imprisonment shall not extinguish the liability to pay the same; but all property then belonging to or afterwards acquired by the prisoner shall be liable to be taken in execution after his discharge from prison for satisfaction thereof, or of so much thereof as is not paid, including the diet money actually expended for subsistence of the prisoner.

Powers of bailiff under warrant against goods.

69. Every bailiff executing any process of execution issuing out of the said Court against the goods of any person, may, by virtue thereof, seize and take any of the goods of such person (excepting the necessary wearing apparel and bedding of such person or his family, and the tools and implements of his trade,) and may also seize and take any money[a] or bank-notes, and any cheques, bills of exchange, promissory notes, bonds, specialties or securities for money belonging to any such person against whom any execution shall have issued as aforesaid.

Delivery of cheques, &c., seized to proper officer.

70. The bailiff shall forthwith deliver any cheques, bills of exchange, promissory notes, bonds, specialties or other securities for money, which shall have been so seized or taken as aforesaid, to the clerk or other person appointed by the Judges to receive the same, who shall hold them as a security or securities for the amount directed to be levied by such execution, or so much

[a] 4 Beng. O. C. J. 96.

thereof as shall not have been otherwise levied or raised for the benefit of the plaintiff; and the plaintiff may sue in the name of the defendant, or in the name of any person in whose name the defendant might have sued, for the recovery of the sum or sums secured, or made payable thereby, when the time of payment thereof shall have arrived.

Right of plaintiff to sue for recovery.

71. If it shall, at any time, appear to the satisfaction of the Court that any defendant is unable, from sickness or other sufficient cause, to pay and discharge the debt or damages recovered against him, or any instalment thereof ordered to be paid as aforesaid, the Judges, in their discretion, may suspend or stay any judgment, order or execution given, made or issued in such action, for such time and on such terms as they shall think fit, and so, from time to time, until it shall appear by the like proof as aforesaid that such temporary cause of disability has ceased.

Power to stay judgment or execution in case of defendant's sickness, &c.

72. No sale of any goods, which shall be taken in execution as aforesaid shall be made, until after the end of five days at least next following the day on which such goods have been so taken, unless such goods be of a perishable nature, or upon the request, in writing, of the party whose goods have been taken.

Time for sale of goods seized.

73. Until such sale, the goods shall be deposited by the bailiff by whom they were taken in some fit place, or they may remain in the custody of a fit person approved by the Judges to be put in possession by the bailiff.

Custody of goods pending sale.

74. The Judges, from time to time, as they shall think proper, may appoint such and so many persons for keeping possession, and so many of their bailiffs or other fit persons to be sworn brokers and appraisers for the purpose of selling or valuing any goods, chattels or effects taken in execution under this Act, as shall appear to them to be necessary, and may direct security to be taken from each of them, for such sum and in such manner as they shall think fit, for the faithful performance of their duties, without injury or oppression; and the Judges may dismiss any person, broker or appraiser so appointed.

Appointment of custodians, brokers and appraisers.

Security.

Dismissal.

75. No goods taken in execution under this Act shall be sold for the purpose of satisfying the warrant of execution, except by one of the brokers or appraisers so appointed.

Seized goods to be sold only by appointed officers.

76. The costs to be demanded or taken for such appraisement and sale, shall be one anna in the rupee on the produce of the goods sold; and the Judges may apply the sum so raised as costs towards payment of the contingent charges and remuneration of the said brokers and appraisers, in such manner as shall be approved by the Governor in Council.

Costs of appraisement and sale.

Application of such costs.

77. The Clerk of the Court shall keep an account of all sums received upon such sales, distinguishing the amount paid to the party entitled to the

Account of sale proceeds.

benefit of the execution, and the amount levied and retained as costs, and also of all sums allowed to the brokers and appraisers upon such sales.

Execution against defendant removed out of jurisdiction.

78. Whenever any defendant against whom judgment shall have been given in the Court of Small Causes, shall go before execution thereof out of the jurisdiction of the Court, the Judge of any zila or town where he shall be found, upon receiving from the plaintiff, either in person or by vakíl, an application in writing setting forth these facts, with a duly authenticated copy of the judgment of the Court, shall execute the said judgment in the manner prescribed by law for execution of his own decrees; unless the defendant shall allege any reasonable cause, why the judgment should not be executed, and shall give security to such amount as the Judge of such zila or town shall deem reasonable, that he will, within such time as shall be allowed him for that purpose, either satisfy the judgment or produce a duly authenticated copy of an order of the Judges of the Court of Small Causes, discharging their former judgment.

Staying or reversal of judgment or execution on writ of error.

79. No judgment or execution shall be stayed, delayed or reversed upon or by any writ of error or *supersedeas* thereon, to be sued for the reversing of any judgment given in any Court holden under the provisions of this Act, unless the amount recovered exceeds one hundred rupees, and then only after the person suing out such writ shall become bound with two sufficient sureties to be approved by the Clerk of the Court, in treble the sum adjudged to be recovered in the former judgment, to prosecute the said writ with effect, and also to satisfy and pay (if the writ be not prosecuted, or if the judgment be affirmed,) the debt or damages and costs adjudged, and all costs and damages to be awarded for the delay of execution.

Endorsement on warrant of execution.

Discharge of goods on payment of debt and costs.

80. Upon every warrant of execution issued against the goods and chattels of any person, the Clerk of the Court shall cause to be stated the sum of money and costs adjudged with the sum paid for such warrant; and if the party against whom such execution shall be issued shall, before an actual sale of the goods and chattels, pay or cause to be paid or tendered unto the Clerk of the Court, or to the bailiff holding the warrant of execution such sum of money and costs, as aforesaid, or such part thereof as the person entitled thereto shall agree to accept in full of his debt or damages and costs, together with the fees herein directed to be paid, the execution shall be superseded, and the goods and chattels of the said party shall be discharged and set at liberty.

Record of proceedings to be kept by clerk.

81. The clerk of every Court holden under this Act shall cause a record of all summonses, and of all orders, and of all judgments and executions, and returns thereto, and of all fines, and of all other proceedings of the Court, to be fairly entered, from time to time, in a book or books belonging to the Court,

which shall be kept at the office of the Court; and shall be duly authenticated by one or more of the Judges; and such entries in the said book or books or a copy thereof bearing the seal of the Court, and purporting to be signed and certified as a true copy by the Clerk of the Court, shall be admitted in all Courts and places as evidence of such entries, and of the proceeding referred to by such entry or entries, and of the regularity of such proceeding, without any further proof.

Admissibility as evidence of entries or copies.

82. The clerk of every such Court shall, in the month of March, in each year, make out a correct list of all sums of money belonging to suitors in the Court, which shall have been paid into Court, and which shall have remained unclaimed for five years before the first day of the month of January then last past, specifying the names of the parties for whom or on whose account the same were so paid into Court; and a copy of such list shall be put up and remain during Court hours in some conspicuous part of the Court house, and at all times in the clerk's office; and all sums of money which shall have been paid into any such Court, to the use of any suitor or suitors thereof, and which shall have remained unclaimed for the period of six years before the passing of this Act, and which are now in the hands of any commissioner or officer of such Court, or otherwise held in trust for such suitors, and all further sums of money which shall hereafter be paid into such Court to the use of any suitor or suitors thereof shall, if unclaimed for the period of six years after the same shall have been so paid into Court, be applicable as part of the fees receivable on account of the Court, and shall be carried to the same account; and no person shall be entitled to claim any sum which shall have remained unclaimed for six years; but no time during which the person entitled to claim such sum shall have been an infant or married woman or of unsound mind, or out of the territories under the government of the East India Company, shall be taken into account in estimating the said period of six years.

Annual list of sums paid into Court and unclaimed for five years.

Exhibition of copy in Court.

Appropriation of sums unclaimed for six years.

Time excluded in reckoning such period.

83. If any person shall wilfully insult any Judge, clerk or officer of the said Court, for the time being, during his sitting or attendance in Court, or shall wilfully interrupt the proceedings of the Court, or otherwise misbehave in Court, it shall be lawful for any bailiff or officer of the Court, with or without the assistance of any other person, by the order of the Judges to take such offender into custody, and detain him until the rising of the Court; and the Judges shall be empowered, if they shall think fit, by a warrant under their hands, and sealed with the seal of the Court, to commit any such offender to any prison to which they have power to commit offenders under this Act, for any time, not exceeding seven days, or to impose upon any such offender a fine, not exceeding fifty rupees for every such offence, and in default of

Punishment for insult to officers, interruption of proceedings or misbehaviour.

payment thereof to commit the offender to any such prison as aforesaid, for any time not exceeding seven days, unless the said fine be sooner paid, or instead of inflicting summary punishment under this Act may cause the offender to be indicted in the Supreme Court, if the offence be an indictable misdemeanour.[a]

Punishment for assaulting officer or rescuing prisoner or goods.

84. If any officer or bailiff of any Court holden under this Act shall be assaulted while in the execution of his duty, or if any rescue shall be made or attempted to be made of any person arrested, or goods levied under process of the Court, the person so offending shall be liable to a fine, not exceeding one hundred rupees, to be recovered by order of the Court, or before a Magistrate as hereinafter provided; and the bailiff of the Court, or any peace officer in any such case, may take the offender into custody (with or without warrant), and bring him before such Court, or Magistrate accordingly.

Power to arrest offender.

Punishment of bailiff for default in execution of warrant.

85. If any bailiff of the said Court, who shall be employed to execute any warrant of the Court, shall, by neglect, or connivance, or omission, lose an opportunity of executing such warrant, then, upon complaint of the party aggrieved by reason of such neglect, connivance or omission (and the fact alleged being proved to the satisfaction of the Court), the Judges shall order the bailiff to pay such damages as it shall appear that the plaintiff has sustained thereby, not exceeding in any case the sum of money for which the said execution is issued, and the bailiff shall be liable thereto; and upon demand made thereof, and on his refusal so to pay and satisfy the same, payment thereof shall be enforced by such ways and means as are herein provided for enforcing a judgment recovered in the said Court, without prejudice nevertheless to the execution of the original warrant.

Recovery of penalty.

Punishment of officers for extortion or misconduct.

86. If any clerk, bailiff or officer of the Court, acting under colour or pretence of the process of the said Court, shall be charged with extortion or misconduct, or with not duly paying or accounting for any money levied by him under the authority of this Act, the Judges may inquire into such matter in a summary way, and for that purpose may summon and enforce the attendance of all necessary parties in like manner as the attendance of witnesses in any case may be enforced, and may make such order thereupon for the repayment of any money extorted, or for the due payment of any money so levied as aforesaid, and for the payment of such damages and costs, as they shall think just; and also, if they shall think fit, may impose such fine upon the clerk, bailiff or officer, not exceeding one hundred rupees for each offence, as they shall deem adequate; and in default of payment of any money so ordered to be paid, payment of the same may be enforced by such

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[a] See Penal Code (Act No. XLV of 1860), s. 228.

ways and means as are herein provided for enforcing a judgment recovered in the said Court.

Punishment for exaction of unauthorized fee.

87. Every clerk, bailiff or other officer employed in putting this Act or any of the powers thereof in execution, who shall wilfully and corruptly exact, take or accept any fee or reward whatsoever, other than his lawful salary, for any thing done or to be done by virtue of this Act, or on any account whatsoever, relative to putting this Act into execution, shall, upon proof thereof before the said Court, and in the case of a clerk, on confirmation of the finding of the Court by the Governor in Council, be for ever incapable of serving, or being employed under this Act in any office of profit or emolument, and shall also be liable for damages as herein provided.

Adjudication of claim by third party to goods seized in execution or to proceeds thereof.

88. If any claim shall be made to, or in respect of, any goods or chattels taken in execution under the process of any Court holden under this Act, or in respect of the proceeds or value thereof, by any person not being the party against whom such process has issued, the Clerk of the Court, upon application of the officer charged with the execution of such process, as well before as after any action brought against such officer, may issue a summons calling before the said Court, as well the party issuing such process as the party making such claim, and thereupon any action, which shall have been brought in the Supreme Court in respect of such claim, shall be stayed, and any Judge of the Supreme Court[a] on proof of the issue of such summons, and that the goods and chattels were so taken in execution, may order the party bringing such action to pay the costs of all proceedings had upon such action after the issue of such summons out of the Court of Small Causes, and the Judges of the Court of Small Causes shall adjudicate upon such claim and make such order between the parties in respect thereof, and of the costs of the proceedings as to them shall seem fit, and such order shall be enforced in like manner as any order made in any suit brought in such Court.

89. [*Repealed by Act No. I of* 1875.]

Who may make affidavit of arrear required by Act VII of 1847.

90. The affidavit of arrear required by the said Act No. VII, 1847, may, in every case, be made either by the person entitled to such arrear or by his or her lawfully constituted attorney, and a warrant of distress may issue on such affidavit.

Summons against tenant without leave or lease refusing to vacate.

91. Where any person shall hold or occupy any house, land or tenement, of which the value or the rent payable in respect thereof does not exceed the rate of one thousand[b] rupees by the year, without leave of the owner,[c] or under a lease or agreement which is ended, or duly determined by a legal notice to quit, and such tenant, or, if such tenant do not actually occupy the premises,

[a] See 24 & 25 Vic., c. 104, s. 11 [b] Act XXVI of 1864, s. 5. [c] 10 Bomb 386

or occupy only a part thereof, any person by whom the same or any part thereof shall be then actually occupied, shall neglect or refuse to quit and deliver up possession of the premises, or of such part thereof respectively, the owner or his agent may take out a summons from the Court directed to such tenant or occupier, to show by what title he claims to hold or occupy the premises or part thereof.

Proof by owner of his right to possession if tenant does not appear and still refuses to vacate.

92. If the tenant or occupier shall not thereupon appear at the time and place appointed, and show cause to the contrary, and shall still neglect or refuse to deliver up possession of the premises, or of such part thereof, of which he is then in possession, to the said owner or his agent, such owner or agent may give to the Court proof of the holding, and of the end or other determination of the tenancy, if any had existed, with the time or manner thereof, and of the right by which he claims the possession.

Issue of warrant to place owner in possession.

93. Upon proof of due service of the summons, and of the neglect or refusal of the tenant or occupier, as the case may be, the Judges may may issue a warrant under the seal of the Court, to any bailiff of the Court requiring and authorizing him within a period to be therein named not less than seven, or more than ten, clear days from the date of such warrant, to give possession of the premises to such owner or agent, and such warrant shall be a sufficient warrant to the said bailiff to enter upon the premises with such assistants as he shall deem necessary, and to give possession accordingly: Provided always, that entry upon any such warrant shall not be made on a Sunday, Good Friday, or Christmas-day, or any other day observed by the Court as a holiday, or at any time except between the hours of six in the morning and six in the afternoon: Provided also, that nothing herein contained shall be deemed to protect any person by whom any such warrant shall be sued out of the Court of Small Causes from any action which may be brought against him by any such tenant or occupier for such entry and taking possession, where such person had not, at the time of suing out the same as aforesaid, lawful right to the possession of the same premises.

Bar to entry on premises on certain days.

Liability for illegal proceeding to obtain possession.

Service of summons on tenant out of jurisdiction,

or whose residence is unknown or not accessible.

94. Such summons, as last aforesaid, may be served either personally or by leave of the Court, upon proof that the tenant or occupier is not to be found within the jurisdiction of the Court, by leaving the same with some person being in, and apparently residing at the place of abode of the person or persons so holding over as aforesaid; or if the place of abode of such person or persons shall either not be known or admission thereto cannot be obtained for serving such summons, by posting the said summons on some conspicuous part of the premises so held over.

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95. No action or prosecution shall be maintainable against the Judges or against the Clerk of the Court, by whom such warrant as aforesaid shall have been issued, or against any bailiff or other person by whom such warrant may be executed, or summons affixed, for issuing such warrant, or executing the same respectively, or affixing such summons, by reason that the person by whom the same shall be sued out had not lawful right to the possession of the premises.

Bar to prosecution of officers for issuing or executing process at suit of person not lawful owner.

96. Where the owner, at the time of applying for such warrant as aforesaid, had lawful right to the possession of the premises, or of the part thereof so held over as aforesaid, neither the said owner nor his agent, nor any other person acting in his behalf, shall be deemed to be a trespasser, by reason merely of any irregularity or informality in the mode of proceeding for obtaining possession under the authority of this Act, but the party aggrieved may, if he think fit, bring an action on the case, for such irregularity or informality, in which the damage alleged to be sustained thereby, shall be specially laid, and may recover full satisfaction for such special damage with costs of suit: Provided that, if the special damage so laid be not proved, the defendant shall be entitled to a verdict, and that, if proved, but assessed at any sum, not exceeding ten rupees, the plaintiff shall recover no more costs than damages, unless the Judge, before whom the trial shall have been holden, shall certify that in his opinion full costs ought to be allowed.

Rightful owner no trespasser for irregularity in proceeding to obtain possession,

but party aggrieved may sue for special damage.

Verdict for defendant if damage not proved. Costs recoverable by successful plaintiff.

97. In every case in which the person, by whom any such warrant shall be sued out of the Court of Small Causes, had not, at the time of suing out the same, lawful right to the possession of the premises, the suing out of any such warrant, as last aforesaid, shall be deemed a trespass by him against the tenant or occupier of the premises, although no entry shall be made by virtue of the warrant; and in case any such tenant or occupier will become bound with two sufficient sureties, to be approved by the Clerk of the Court, in such sum as to the Judges shall seem reasonable, regard being had to the value of the premises and to the probable cost of such action, to sue the person by whom such warrant was sued out with effect and without delay, and to pay all the costs of the proceeding in such action, in case a verdict shall pass for the defendant, or the plaintiff shall discontinue or not prosecute his action, or become nonsuit therein, execution upon the warrant shall be stayed until judgment shall have been given in such action of trespass; and, if upon the trial of such action of trespass, judgment be given for the plaintiff, such judgment shall supersede the said warrant.

Suitor for warrant, a trespasser, if not rightful owner.

Stay of execution of warrant pending judgment in tenant's suit for trespass.

98. Recovery of the possession of any such house, land or tenement shall be no bar to the institution of a regular suit, for trying the title thereunto, which may be brought in the Supreme Court, as if this Act had not been passed.

Recovery of possession no bar to suit to try title.

Bond on removal of action out of Court, staying judgment or execution, &c.

99. Every bond given on the removal of any action out of the Court of Small Causes, or upon staying, delaying or reversing any judgment or execution awarded therein, or the execution of any such warrant of possession as aforesaid, or on moving for a new trial, or to set aside a verdict, judgment or nonsuit, shall be made to the other party to the action, and shall be approved by the Judges and attested under the seal of the Court; and if the bond so taken be forfeited, or if upon the proceeding for securing which such bond was given, the Judge, before whom such proceeding shall be had, shall not certify upon the record in Court, that the condition of the bond hath been fulfilled, the party to whom the bond shall have been so made may bring an action of debt and recover thereon: Provided always, that the Court in which such action as last aforesaid shall be brought may, by a rule of Court, give such relief to the parties liable upon such bond as may appear to him reasonable, and such rule shall have the nature and effect of a defeasance to such bond.

Effect of forfeit of bond or non-fulfilment of condition.

Relief to parties liable on bond.

Jurisdiction of Supreme Court in actions by and against Small Cause Court officers.

100. All actions and proceedings, which before the passing of this Act, might have been brought in the Supreme Court, where any officer of the Court of Small Causes shall be a party, except in respect of any claim to any goods and chattels taken in execution of the process of the Court, or the proceeds or value thereof, may be brought and determined in the Supreme Court, at the election of the party suing or proceeding, as if this Act had not been passed.

Costs to plaintiff obtaining in Supreme Court, in certain cases, judgment within competency of Small Cause Court.

Costs to successful defendant in such case. Certificate of fitness of proceeding in Supreme Court.

101. If any action shall be commenced after the passing of this Act in the Supreme Court, for any cause other than those lastly hereinbefore specified, for which a summons might have been taken out from a Court holden under this Act, and a verdict shall be found for the plaintiff for a sum less than five hundred rupees, if the said action is founded on contract, or less than one hundred rupees, if it is founded on wrong, the plaintiff shall have judgment to recover such sum only, and no costs; and if a verdict shall not be found for the plaintiff, the defendant shall be entitled to his costs as between attorney and client, unless in either case the Judge, who shall try the cause, shall certify on the back of the record that, by reason of the difficulty, novelty, or general importance of the case, or of some erroneous course of decision on like cases in the Court of Small Causes, the action was fit to be brought in the Supreme Court.[a]

Costs to successful suitor in Supreme Court against

102. If any person shall bring any suit in the Supreme Court in respect of any grievance committed by the clerk, bailiff, or officer of any Court holden under this Act, under colour or pretence of the process of the said

[a] That this section is still in force, see 1 Mad. 115. As to the meaning of 'Supreme Court,' see 24 & 25 Vic., c. 104, s. 11.

Court, and upon the trial of the action, no greater damages shall be found for the plaintiff than the sum of five hundred rupees, no costs shall be awarded to the plaintiff in such action, unless the Judge shall certify in Court, upon the back of the record, that the action was fit to be brought in the Supreme Court.

officer of Small Cause Court, when judgment within competency of latter.

103. All penalties, fines and forfeitures by this Act, inflicted or authorized to be imposed (the manner of recovering and applying whereof is not hereby otherwise particularly directed), upon proof before any Justice of the Peace or Magistrate having jurisdiction where the offender shall reside or be, or the offence shall be committed, either by the confession of the party offending, or by the oath or affirmation of any credible witness, shall be levied, with the costs attending the summons and conviction, by distress and sale of the goods and chattels of the party offending, by warrant under the hand of any such Justice or Magistrate, and the overplus (if any) after such penalties, fines and forfeitures, and the charges of such distress and sale are deducted, shall be returned, upon demand, unto the owner of such goods and chattels.

Levy of penalties, &c., under Act in cases not otherwise provided for.

104. If any such penalties, fines and forfeitures respectively, shall not be paid forthwith upon conviction, it shall be lawful for such Justice or Magistrate to order the offender so convicted to be detained in safe custody until return can conveniently be made to such warrant of distress; unless such offender shall give sufficient security to the satisfaction of such Justice or Magistrate for his appearance before him on such day as shall be appointed for the return of such warrant of distress, such day not being more than eight days from the time of taking any such security, which security the Justice or Magistrate shall be empowered to take by way of recognizance or otherwise, as to him shall seem fit.

Detention of defaulter pending return to distress warrant.

105. If upon return of such warrant it shall appear that no sufficient distress can be had thereupon, or in case it shall appear to the satisfaction of the Justice or Magistrate, either by confession of the offender or otherwise, that he hath not within the jurisdiction of such Justice or Magistrate, sufficient goods and chattels whereon to levy all such penalties, forfeitures, costs and charges, the Justice or Magistrate may, at his discretion, without issuing any warrant of distress, commit the offender to the common gaol or house of correction, for any time not exceeding three calendar months, unless such penalties, forfeitures and fines, and all reasonable charges attending the recovery thereof, shall be sooner paid and satisfied.

Imprisonment on failure to recover by distress.

106. The monies arising from any such penalties, forfeitures and fines as aforesaid when paid and levied, shall (if not by this Act directed to be otherwise applied) be, from time to time, paid to the Clerk of the Court, and shall be applied in like manner as the fees thereof.

Custody and application of sums recovered on account of penalties, &c.

Levy of penalties, &c., recoverable before Justice or Magistrate.

107. In all cases in which by this Act any penalty or forfeiture is made recoverable before a Justice or Magistrate, he may summon before him the party complained against, and on such summons may hear and determine the matter of such complaint; and, on proof of the offence, may convict the offender and adjudge him to pay the penalty or forfeiture incurred, and proceed to recover the same, although no information in writing shall have been exhibited before him; and all such proceedings by summons without information in writing shall be as valid and effectual to all intents and purposes as if an information in writing had been exhibited.

Form of conviction.

108. In all cases where any conviction shall be had for any offence committed against this Act, the form of conviction may be in the words or to the effect following: (that is to say,) "Be it remembered that on this day
" of in the year A. B. is convicted
" before a Magistrate for the
" (or before a Judge appointed under Act IX.
" 1850) of having *(state the offence;)* and I *(or we)* the said
" do adjudge the said to forfeit and pay for the same the
" sum of [or to be committed to for the space
" of] given under hand ( ) and seal ( ) the day
" and year aforesaid."

Order, &c., not vacated for want of form.

109. No order, verdict or judgment, or other proceeding, made concerning any of the matters aforesaid, shall be quashed or vacated for want of form.

Distress not unlawful, nor distrainer a trespasser, for defect in proceedings,

110. Where any distress shall be made for any sum of money to be levied by virtue of this Act, the distress itself shall not be deemed unlawful, nor the party making the same be deemed a trespasser, on account of any defect or want of form in the information, summons, conviction, warrant of distress or other proceeding relating thereto, nor shall the party distraining be deemed a trespasser from the beginning, on account of any irregularity which shall afterwards be committed by the party so distraining, but the person aggrieved by such irregularity may recover full satisfaction for the special damage in an action upon the case.

but injured party may sue for special damage.

Limitation of action for proceeding under Act. Notice to defendant.

111. All actions and prosecutions to be commenced against any person for any thing done in pursuance of this Act, shall be commenced within three calendar months after the fact committed, and not afterwards, and notice in writing of such action, and of the cause thereof, shall be given to the defendant one calendar month at least before the commencement of the action; and no plaintiff shall recover in any such action, if tender of sufficient amends shall have been made before such action is brought, or if after action brought, a sufficient sum of money shall have been paid into Court, with costs by or on behalf of the defendant.

Tender of amends a bar to recovery.

Schedule of Fees.

Sums not above	Every Summons or Subpœna.		Warrant.	
Rupees.	Rupees.	Annas.	Rupees.	Annas.
10	0	2	0	2
20	0	4	0	4
50	0	8	0	8
100	1	0	1	0
200	1	4	2	0
300	1	8	3	0
400	1	12	4	0
500	2	0	5	0

ACT No. XI OF 1850.

Passed on the 15th of March 1850.

An Act to amend Act X. 1841.

FOR amendment of Act X. 1841, It is enacted as follows:— Preamble.

1.—[*Repealed by Act No. XIV of* 1870.]

2. The passes which, under section 24 of the said Act, may be issued for conferring the privileges and advantages of a British ship, in certain cases, to any ship or vessel built within the dominions of a Native Prince or State in subordinate alliance with, or having subsidiary treaties with the East India Company, may, after the passing of this Act, be issued in the like cases, and under the same restrictions, to any ship or vessel belonging to any such Native Prince or State, or their subjects, wherever the same may have been built. Passes under Act X. 1841 to ships of allied Native States wherever built.

3. All ships or vessels, of whatever rig and of whatever tonnage, owned by British subjects, entitled to registry under Act X. 1841, or owned by such Native Princes or States, or by their subjects entitled to passes under Act X. 1841, as amended by this Act, employed only in coasting voyages, or between any port of the continent of India and the island of Ceylon, may be registered and obtain passes, and the tonnage may be marked, according to such rules as shall be made from time to time by the Governor or Governor in Council of each presidency. Registry of, and passes to, certain coasting vessels.

4. The owners of coasting vessels, registered under section 3 of this Act, shall pay for each certificate of registry, Fees for certificates of registry of such vessels.

For a vessel not exceeding the burthen of four tons, one rupee,

Exceeding four tons and not exceeding twenty tons, five rupees,

Exceeding twenty tons and not exceeding eighty tons, seven rupees,

Exceeding eighty tons, for each ton two annas,

Which fees shall be carried to the credit of the Government of the presidency in which they are levied.

Construction.

5. This Act shall be construed with and as part of Act X. 1841.

ACT No. XII OF 1850.

Passed on the 22nd March 1850.

For avoiding loss by the default of Public Accountants.

Preamble.

FOR better avoidance of loss though the default of public accountants, It is enacted as follows :

Public accountants to give security.

1. Every public accountant shall give security for the due discharge of the trusts of his office, and for the due account of all moneys which shall come into his possession or control, by reason of his office.

Amount and kind of security, and with what sureties.

2. In default of any Act having special reference to the office of any public accountant, the security given shall be of such amount and kind, real or personal, or both, and with such sureties (regard being had to the nature of the office), as shall be required by any rules made or to be made from time to time, by the authority by which each public accountant is appointed to his office, subject to the approval of the Governor or Governor in Council of the presidency or place.

"Public accountant" defined.

3. Every person is a public accountant within the meaning of this Act, who, by reason of any office held by him in the service of the East India Company is entrusted with the receipt, custody or controul of any moneys or securities for money, or the management of any lands belonging to the East India Company, or as Official Assignee or Trustee, or as sarbaráhkár, or in any other official capacity, with the receipt, custody or controul of any moneys or securities for money, or the management of any lands belonging to any other person or persons.[a]

Prosecution of accountants and sureties.

4. The person or persons at the head of the office to which any public accountant belongs may proceed against any such public accountant and his sureties, for any loss or defalcation in his accounts, as if the amount thereof were an arrear of land revenue due to Government.

Enactments applied to

5. All Regulations and Acts now or hereafter to be in force for the recovery of arrears of land revenue due to Government, and for recovery of

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[a] See Bengal Act No. IV of 1870, s. 42.

damages by any person wrongfully proceeded against for any such arrear, shall apply, with such changes in the forms of procedure as are necessary to make them applicable to the case, to the proceedings against and by such public accountant.

proceedings by and against accountants.

ACT No. XVIII OF 1850.

Passed on the 4th April 1850.

An Act for the protection of Judicial Officers.

FOR the greater protection of Magistrates and others acting judicially, It is enacted as follows:

Preamble.

1. No Judge, Magistrate, Justice of the Peace, Collector or other person acting judicially shall be liable to be sued in any Civil Court, for any act done or ordered to be done by him in the discharge of his judicial duty,[a] whether or not within the limits of his jurisdiction: provided that he at the time, in good faith,[b] believed himself to have jurisdiction to do or order the act complained of: and no officer of any Court or other person, bound to execute the lawful warrants or orders of any such Judge, Magistrate, Justice of the Peace, Collector or other person acting judicially shall be liable to be sued in any Civil Court, for the execution of any warrant or order, which he would be bound to execute, if within the jurisdiction of the person issuing the same.[c]

Non-liability to suit of officers acting judicially, for official acts done in good faith, and of officers executing warrants and orders.

ACT No. XIX OF 1850.

Passed on the 11th April 1850.

Concerning the binding of Apprentices.

FOR better enabling children, and especially orphans and poor children brought up by public charity, to learn trades, crafts and employments, by which, when they come to full age, they may gain a livelihood, It is enacted as follows:

Preamble.

1. Any child, above the age of ten, and under the age of eighteen years, may be bound apprentice by his or her father or guardian to learn any fit trade, craft or employment, for such term as is set forth in the contract of apprenticeship, not exceeding seven years, so that it be not prolonged beyond the time when such child shall be of the full age of twenty-one years, or in the case of a female, beyond the time of her marriage.

Apprenticing of child between 10 and 18 years old.

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[a] 3 Bomb. A. C. J. 47.

[b] See 1 Tayl. & Bell, 228 n.: 6 Mad. 439: 3 Bomb. A. C. J. 46: 4 Beng. A. C. J. 37.

[c] See Act No. X of 1872, s. 466.

Evidence of age in questions as to right to service.

2. The age set forth in the contracts shall be evidence of the age of the child, in all questions which arise as to the right of the master to the continuance of the service.

Powers of Magistrate or Justice acting for orphans, &c.

3. Any Magistrate or Justice of the Peace may act with all the powers of a guardian under this Act, on behalf of any orphan, or poor child abandoned by its parents, or of any child convicted before him, or any other Magistrate, of vagrancy, or the commission of any petty offence.

Apprenticing of child brought up by public charity.

4. An orphan or poor child, brought up by any public charity, may be bound apprentice by the governors, directors or managers thereof, as his or her guardians for this purpose.

Apprenticing of such boy in sea service.

5. Any such boy may be bound as an apprentice in the sea service to any of Her Majesty's subjects, being the owner of any registered ship belonging to and trading from any port in the territories under the Government of India, which has been declared to be a registering port under Act X. 1841, to be employed in any such ship the property of such person, commanded by a British subject, and, while so employed, to be taught the craft and duty of a seaman.[a]

6. [*Repealed by Act No. XIV of* 1870.]

Who to be agent of master of apprentice serving in ship.

7. The master or commander of any ship in which an apprentice bound to the sea service shall be appointed to serve by the party to whom he is bound, shall be deemed the agent of such party for the purpose of this Act.

Form and contents of contract of apprenticeship.

8. Every contract of apprenticeship shall be in writing, according to the form given in the schedule (A.) annexed to this Act, or to the like effect, which shall set forth the conditions agreed upon particularly specifying the age of the apprentice, the term for which he is bound, and what he is to be taught.

Signatures to contract.

9. Every such contract shall be signed by the person to whom the apprentice is bound, and by the person by whom he is bound, and by the apprentice, when he is of the age of fourteen years or more at the time of binding; but, when the apprentice is bound by the governors, directors or managers of a public charity, the signature of two of them, or of their secretary or officer, shall be sufficient on behalf of the persons binding the apprentice.

Contract not valid unless executed as prescribed and deposited.

10. No such contract shall be valid unless it be executed in the manner aforesaid, nor until it has been deposited in the office of the Chief Magistrate of the place or district where it has been executed, or if the apprentice is bound to the sea service, in the office of the person appointed under Act X. 1841, to make registry of ships at the port where the apprentice is to begin his service; and the person in whose office any such contract is deposited shall

[a] See Act No. I of 1859, s. 4.

give to each of the parties a copy thereof, certified under his hand, which certified copies shall be received as evidence of the contract, without formal proof of the hand-writing of the Magistrate or registering officer.

Copies to be given to parties.

11. The terms of service may be changed at any time during the apprenticeship, or the contract may be determined, with the consent of both parties to the contract or their personal representatives, and with the consent of the apprentice, if he is above the age of fourteen years; provided, that the changes agreed to or the termination of the contract shall be expressed in writing on the original contract, with the signature of the proper parties according to section 8[a] of this Act; and the Magistrate or registering officer shall thereupon make under his hand corresponding endorsements on the office copies, which shall be brought to him at the same time for that purpose.

Alteration of terms of service and termination of contract.

12. The master of any apprentice bound under this Act may, with the consent of the person by whom he was bound, and with the consent of the apprentice, if he is above the age of fourteen years, assign such apprentice to any other person, who is willing to take him for the residue of his apprenticeship, and subject to the conditions thereof; provided that such person shall, by endorsement under his own hand on the contract, declare his acceptance of such apprentice, and acknowledge himself bound by the agreements and covenants therein mentioned, to be performed on the part of the master, and that the consent of the other parties aforesaid shall be expressed in writing on the same, and signed by them respectively: And every such assignment shall be certified on the office copies of the contract under the hand of the Magistrate or registering officer according to the form given in schedule (B) annexed to this Act.

Assignment of apprentice to new master.

13. Upon complaint made to any Magistrate in the said territories,[b] by or on behalf of any apprentice bound under this Act, of refusal or neglect to provide for him, or to teach him according to the contract of apprenticeship, or of cruelty, or other ill-treatment by his master, or by the agent under whom he shall have been placed by his master, the Magistrate may summon the master or his agent, as the case may be, if he shall be within his jurisdiction, to appear before him at a reasonable time, to be stated in the summons, to answer the complaint; and at such time, whether the master or his agent be present or not (service of the summons being proved), may examine into the matter of the complaint; and, upon proof thereof, may cancel the contract of apprenticeship, and assess upon the offender, whether he shall be the master or his agent, a reasonable sum for behoof of the apprentice, not

Powers of Magistrate in case of complaint by apprentice against master.

[a] *Sic.* Read 'section 9.'

[b] See section 5.

exceeding four times the amount of the premium paid upon the binding, or if no premium, or a less premium than fifty rupees was paid, not exceeding two hundred rupees; and, if the offender shall not pay the sum so assessed, may levy the same by distress and sale of his goods and chattels, and if the offender shall not be the master but his agent, by distress and sale of the goods and chattels of the master also.

Power of master or his agent to chastise apprentice.

Liability of master or agent for assault, &c.

14. No contract of apprenticeship shall be cancelled, nor shall any master or his agent be liable to any criminal proceeding, on account of such moderate chastisement for misbehaviour, given to any apprentice by his master or the agent of his master, as may lawfully be given by a father to his child; and the provision for enabling the contract of apprenticeship to be cancelled shall not bar any criminal proceeding against any master or his agent for an assault or other offence committed against his apprentice, for which he would be liable to be punished, had it been against his child; whether or not any proceedings be taken for cancelling the contract of apprenticeship.

Power of Magistrate in case of complaint by master against apprentice.

15. Upon complaint made to any Magistrate, by or on behalf of the master of any apprentice bound to him under this Act, of any ill-behaviour of such apprentice, or if such apprentice shall have absconded, the Magistrate may issue his warrant for apprehending such apprentice, and may hear and determine the complaint, and punish the offender by an order for keeping the offender, if a boy, in confinement in any debtor's prison or other suitable place, not being a criminal gaol, for any time not exceeding one month, of which one week may be in solitary confinement, during which time such allowance shall be made for his subsistence by the master or his agent as the Magistrate shall order; and, if the offender be a boy of not more than fourteen years of age, may order him to be privately whipped: or, if the offender be a girl, or in the case of any boy, the Magistrate deem any such punishment unfit, he may pass an order empowering the master of the apprentice or his agent to keep the offender in close confinement in his own house, or on board the vessel to which he belongs, upon bread and water, or such other plain food as may be given without injury to the health of the apprentice, for a period not exceeding one month.

Cancelment of contract for misconduct of apprentice.

16. Upon complaint of wilful and repeated ill-behaviour on the part of the apprentice, and on the demand of the master, the Magistrate may order the contract of apprenticeship to be cancelled, whether or not the charge is proved; but only with the consent of the apprentice and of his father or guardian, if the charge is not proved: and such cancelling shall be with or without refund of the whole or part of any premium that may have been paid to the master on binding such apprentice, as to the Magistrate seems fit on

consideration of the case; and all sums so refunded shall be applied under the direction of the Magistrate for behoof of the apprentice.

Appropriation of sum recovered for apprentice on cancelment of contract.

17. The Magistrate may order any sum recovered for behoof of the apprentice on cancelling the contract to be either laid out in binding him to another master, or otherwise for his benefit, or to be paid to the person by whom any premium was paid when he was bound apprentice.

Limitation of complaint of master against apprentice;

18. No Magistrate shall entertain a complaint on the part of a master against an apprentice under this Act, unless it be brought within one month after the cause of complaint arose; or, if the cause of complaint arose on board ship during a voyage, within one month after the arrival thereof at a port or place in the said territories: and no Magistrate shall entertain a complaint on the part of an apprentice against his master or the agent of his master under this Act, unless it be brought within three months after the cause of complaint arose; or if the cause of complaint arose on board ship during a voyage within three months after the arrival thereof at a port or place in the said territories.

of apprentice against master.

Effect of death of master during apprenticeship.

19. If the master of any apprentice shall die before the end of the apprenticeship, the contract of apprenticeship shall be thereby determined; and a proportionate part, corresponding to the unexpired portion of the term, of any premium, which shall have been paid to such master on the binding of the apprentice to him, shall be returned by the executors or administrators out of the estate of the deceased to the person or persons who shall have paid the same; unless the executors or administrators of the deceased master shall continue the business in which such apprentice shall have been employed, and shall, within three months from the death of the late master, make offer in writing to keep the apprentice on the terms of the original contract; in which case the estate of the deceased shall be discharged from all liabilities on account of such premium.

Offer by representative of master to continue apprenticeship.

Offer to be certified on original contract and copies.

20. If such offer to keep the apprentice shall be made as aforesaid, the same shall be fully expressed and certified by the executors and [a] administrators on the original contract of apprenticeship; and also on the office-copies thereof, by the Magistrate or registering officer; and the apprentice shall be bound to the executors or administrators so keeping him for the remaining term of his apprenticeship.

Maintenance of apprentice whose master dies.

21. Any apprentice bound under this Act, whose master shall die during the apprenticeship, shall be entitled to maintenance for three months from and after the death of his master, out of the assets left by

[a] *Sic.* Read 'or.'

Apprentice to continue to serve.

him; provided that during such three months such apprentice shall continue to live with, and serve as an apprentice, the executors or administrators of such master, or such person as they shall appoint.

Effect of insolvency of master during apprenticeship.

22. The apprentice of any person against whom a commission of bankruptcy shall be issued, or who shall be adjudged to have committed an act of insolvency, during the apprenticeship, shall be discharged from all obligation under the contract of apprenticeship; and, if any premium was paid on binding him as an apprentice, he or the person by whom he was bound shall be entitled to claim the amount thereof, as a debt against the estate of the bankrupt or insolvent.[a]

Persons amenable to jurisdiction of Magistrates' Courts.

23. For the purposes of this Act all British subjects, wherever or of whatever parents born, as well as other persons in the territories under the Government of India, without the towns of Calcutta and Madras and the town and island of Bombay, shall be amenable to the jurisdiction of the Courts and Magistrates of India.

Appeal from orders of Mofussil Magistrates

24. An appeal shall lie from any order passed by any Magistrate without the said towns and island to the Court of Session to which such Magistrate is subordinate, provided the appeal is made within one month from the date of the order.

Interpretation of terms.

25. In this Act the words "master," "owner," "person," and the pronoun "he" shall be understood to include several persons as well as one person, and females as well as males, and bodies corporate as well as individuals, unless there is something in the context repugnant to such construction.

SCHEDULE A.

Form of Agreement.

This Agreement made the day of in the year between *A. B.*, of and *C. D.*, of witnesseth that the said *A. B.* doth this day bind *E. F.*, a boy (or girl) of the age of years completed, son (or daughter) of the said *A. B.* (or otherwise describing the relation in which *A. B.* and *E. F.* stand) to dwell with and serve the said *C. D.*, as an apprentice, from this day forth for years (in the case of a girl add, or until the time of her marriage, which shall first happen), during all which term the said apprentice shall duly and faithfully serve the said *C. D.*, according to his (or her) skill and ability in all lawful business, and demean and behave himself (or herself) honestly, orderly, and obediently, in all things toward the said *C. D.* and his

[a] Compare 12 & 13 Vic., c. 106, s. 170.

(or her) family. And the said *C. D.* for himself (or herself) and his (or her) executors and administrators, in consideration (of the premium or sum of paid by the said *A. B.* to the said *C. D.*, the receipt whereof the said *C. D.* hereby acknowledges, and) of the faithful service of the said *E. F.*, doth covenant and agree with the said *A. B.*, his (or her) executors and administrators, that he (or she) will teach or cause to be taught to the said *E. F.*, in the best way and manner that he (or she) can, the trade (craft or employment) of a during the said term; and will also, during the said term, find and allow unto the said apprentice good, wholesome and sufficient food, clothes, lodging, washing, and all other things necessary, fit and reasonable for an apprentice: (and further, *here insert any special covenants*).

If there is no premium the words between brackets may be omitted.

In witness whereof the parties have hereunto set their hands and seals, the day and year above written.

A. B. L.S.

C. D. L.S.

SCHEDULE B.

Form of Order of Assignment.

(To be endorsed on the Agreement.)

Be it known to all men that on the day of in the year personally appeared before *G. H.*, Magistrate of , *C. D.*, of with *E. F.*, his (or her) apprentice, and *J. K.*, of and desired that the agreement of apprenticeship, whereby the said *E. F.* was bound to the said *C. D.*, might be assigned and made over to the said *J. K.*, and the said *G. H.* having satisfied himself, by personal examination of the said *E. F.*, and by other lawful ways and means, that such assignment is for the benefit of the said *E. F.*, and is made with the consent of (the said *E. F.*, and of) all persons whose consent thereunto by law is required, doth allow such assignment: and the contract of apprenticeship whereby the said *E. F.* was on the day of in the year bound to the said *C. D.*, as an

If E. F. is not above the age of fourteen years, the words between brackets may be omitted.

apprentice to learn the trade (craft or employment) of a shall henceforth endure, unto the end of the said term, as if the said *J. K.* had been originally party to the said deed, and had executed the same, in the place and stead of the said *C. D.*, and shall be bound, for himself (or herself) his (or her) executors or administrators, to fulfil the covenants by the said *C. D.* to be performed, and the said *E. F.* shall henceforth be bound unto the said *J. K.*, in like manner as he (or she) was by the said agreement bound unto the said *C. D.*

C. D. *E. F.* *J. K.*

In witness whereof the said *C. D.*, *E. F.* and *J. K.* have hereunto set their hands before me the day and year above written.

G. H., Magistrate.

ACT No. XXI OF 1850.

Passed on the 11*th April* 1850.

An Act for extending the principle of Section IX. Regulation VII. 1832, of the Bengal Code, throughout the Territories subject to the Government of the East India Company.[a]

Preamble.

WHEREAS it is enacted by section 9. Regulation VII. 1832, of the Bengal Code, that "whenever in any civil suit the parties to such suit may be of different persuasions, when one party shall be of the Hindú and the other of the Muhammadan persuasion: or where one or more of the parties to the suit shall not be either of the Muhammadan or Hindú persuasions: the laws of those religions shall not be permitted to operate to deprive such party or parties of any property to which, but for the operation of such laws, they would have been entitled;" and whereas it will be beneficial to extend the principle of that enactment throughout the territories subject to the government of the East India Company, It is enacted as follows:

Law or usage which inflicts forfeiture of, or affects, rights on change of religion or loss of caste to cease to be enforced.

1. So much of any law or usage now in force within the territories subject to the government of the East India Company, as inflicts on any person forfeiture of rights or property, or may be held in any way to impair or affect any right of inheritance, by reason of his or her renouncing, or having been excluded from the communion of any religion, or being deprived of caste,[b] shall cease to be enforced as law in the Courts of the East India Company, and in the Courts established by Royal Charter within the said territories.[c]

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[a] Declared to apply to the whole of British India, except the Scheduled Districts, Act No. XV of 1874.

[b] 13 Beng. 25, 75—76.

[c] 9 Moo. I. A. 239.

ACT No. XXXIV OF 1850.[a]

Passed on the 23rd of August 1850.

An Act for the better Custody of State Prisoners.[b]

WHEREAS doubts have been entertained whether State prisoners confined under Regulation III. 1818, of the Bengal Code, can be lawfully detained in any fortress, gaol, or other place, within the limits of jurisdiction of any of the Supreme Courts of Judicature, established by Royal Charter, and it is expedient that such doubts be removed, and the powers of the said Regulation extended to all the territories under the government of the East India Company, It is enacted as follows:— Preamble.

1. The warrant of commitment of any State prisoner, under Regulation III. 1818, of the Bengal Code, may be directed to the Sheriff of the gaol of any of the Supreme Courts of Judicature established by Royal Charter in the said territories, or to the commandant of any fortress, or to the officer in charge of any gaol or other place, in which it is deemed expedient that such State prisoner be confined, in any part of the said territories; and such warrant shall be sufficient authority for the detention of such State prisoner in the fortress, gaol or other place mentioned in the warrant. Officers to whom warrant of commitment of State prisoner under Ben. Regulation III of 1818 may be addressed.

2. Regulation III. 1818, of the Bengal Code, shall be extended and applied to every Sheriff, commandant or officer, having any State prisoner in custody, under the said Regulation, as explained and extended by this Act. Regulation III of 1818 extended.

3. Any State prisoner, now confined under any such warrant within the jurisdiction of any of the said Supreme Courts, under the warrant of the Governor General in Council, shall be deemed to have been lawfully committed thereunto. Confinement of State prisoners legalized.

ACT NO. XXXVII OF 1850.[c]

Passed on the 1st November 1850.

For regulating Inquiries into the behaviour of Public Servants.[d]

WHEREAS it is expedient to amend the law for regulating inquiries into the behaviour of public servants not removable without the sanction of Govern- Preamble

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[a] Declared to apply to the whole of British India, except the Scheduled Districts, Act No. XV of 1874.

[b] See Act No. III of 1858, and Act No. V of 1871, section 15. See, too, *Re Ameer Khan*, 6 Beng. 392.

[c] Declared to apply to the whole of British India, except the Scheduled Districts, Act No. XV of 1874.

[d] See Act No. XIV of 1869, section 33, and Act No. III of 1873, section 20.

ment, and to make the same uniform throughout the territories under the government of the East India Company, It is enacted as follows:

[1. *Repealed by Act No. XIV of* 1870.]

Articles of charge to be drawn out for public inquiry into conduct of certain public servants.

2. Whenever the Government shall be of opinion that there are good grounds for making a formal and public inquiry into the truth of any imputation of misbehaviour by any person in the service of the East India Company not removable from his office without the sanction of the same Government, it shall cause the substance of the imputations to be drawn into distinct articles of charge, and shall order a formal and public inquiry to be made into the truth thereof.

Authorities to whom inquiry may be committed.

Notice to accused.

3. The inquiry may be committed either to the Court, Board or other authority to which the person accused is subordinate, or to any other person or persons, to be specially appointed by the Government, commissioners for the purpose: notice of which commission shall be given to the person accused ten days at least before the beginning of the inquiry.

Conduct of Government prosecution.

4. When the Government shall think fit to conduct the prosecution, it shall nominate some person to conduct the same on its behalf.

Charge by accuser to be written and verified. Penalty for false accusation. Institution of inquiry by Government.

5. When the charge shall be brought by an accuser, the Government shall require the accusation to be reduced to writing, and verified by the oath or solemn affirmation of the accuser, and every person who shall wilfully and maliciously make any false accusation under this Act, upon such oath or affirmation, shall be liable to the penalties of perjury: but this enactment shall not be construed to prevent the Government from instituting any inquiry which it shall think fit, without such accusation on oath or solemn affirmation as aforesaid.

Security from accuser left by Government to prosecute.

6. Where the imputations shall have been made by an accuser, and the Government shall think fit to leave to him the conduct of the prosecution, the Government before appointing the commission shall require him to furnish reasonable security that he will attend and prosecute the charge thoroughly and effectually, and also will be forthcoming to answer any counter-charge or action which may be afterwards brought against him for malicious prosecution or perjury or subornation of perjury, as the case may be.

Power of Government to abandon prosecution and to allow accuser to continue it.

7. At any subsequent stage of the proceedings, the Government may, if it think fit, abandon the prosecution, and in such case may, if it think fit, on the application of the accuser, allow him to continue the prosecution, if he is desirous of so doing, on his furnishing such security as is hereinbefore mentioned.

Powers of commissioners.

8. The commissioners shall have the same power of punishing contempts and obstructions to their proceedings, as is given to civil and criminal Courts,

and shall have the same powers for the summons of witnesses, and for compelling the production of documents, and for the discharge of their duty under the commission, and shall be entitled to the same protection as the zila and city Judges, except that all process to cause the attendance of witnesses, or other compulsory process, shall be served through and executed by the zila or city Judge in whose jurisdiction the witness or other person resides, on whom the process is to be served, and if he resides within Calcutta, Madras or Bombay, then through the Supreme Court of Judicature[a] there. When the commission has been issued to a Court, or other person or persons having power to issue such process in the exercise of their ordinary authority, they may also use all such power for the purposes of the commission.

Their protection.

Service of their process.

Powers of Court, &c., acting under commission.

9. All persons disobeying any lawful process issued as aforesaid for the purposes of the commission shall be liable to the same penalties, as if the same had issued originally from the Court or other authority through whom it is executed.

Penalty for disobedience to process.

10. A copy of the articles of charge, and list of the documents and witnesses by which each charge is to be sustained shall be delivered to the person accused, at least three days before the beginning of the inquiry, exclusive of the day of delivery, and the first day of the inquiry.

Copy of charge and list to be furnished to accused.

11. At the beginning of the inquiry, the prosecutor shall exhibit the articles of charge to the commissioners, which shall be openly read, and the person accused shall thereupon be required to plead "guilty" or "not guilty" to each of them, which pleas shall be forthwith recorded with the articles of charge. If the person accused refuses, or without reasonable cause neglects to appear to answer the charge either personally or by his Counsel or agent, he shall be taken to admit the truth of the articles of charge.

Procedure at beginning of inquiry.

Non-appearance of accused an admission of charge.

12. The prosecutor shall then be entitled to address the commissioners in explanation of the articles of charge, and of the evidence by which they are to be proved: his address shall not be recorded.

Prosecutor's right of address.

13. The oral and documentary evidence for the prosecution shall then be exhibited: the witnesses shall be examined by or on behalf of the prosecutor, and may be cross-examined by or on behalf of the person accused. The prosecutor shall be entitled to re-examine the witnesses on any points on which they have been cross-examined, but not on any new matter, without leave of the commissioners, who also may put such questions as they think fit.

Evidence for prosecution and examination of witnesses.

Re-examination by prosecutor.

14. If it shall appear necessary before the close of the case for the prosecution, the commissioners may in their discretion allow the prosecutor to

Power to admit or call for new evi-

[a] See 24 & 25 Vic, c, 104, s. 11.

dence for prosecution. Accused's right to adjournment.

exhibit evidence not included in the list given to the person accused, or may themselves call for new evidence, and in such case the person accused shall be entitled to have, if he demand it, an adjournment of the proceedings for three clear days, before the exhibition of such new evidence exclusive of the day of adjournment and of the day to which the proceedings are adjourned.

Defence of accused.

To be recorded only when written.

15. When the case for the prosecution is closed, the person accused shall be required to make his defence, orally or in writing, as he shall prefer. If made orally, it shall not be recorded; if made in writing, it shall be recorded, after being openly read, and in that case a copy shall be given at the same time to the prosecutor.

Evidence for defence, and examination of witnesses.

16. The evidence for the defence shall then be exhibited, and the witnesses examined, who shall be liable to cross-examination and re-examination and to examination by the commissioners according to the like rules as the witnesses for the prosecution.

Examination on oath or solemn affirmation.

Punishment for false evidence.

Evidence by prosecutor.

17. All witnesses, either for the prosecution or defence, shall be examined on oath, or, if exempt from taking an oath in Courts of Justice, on solemn affirmation,[a] to be administered in either case by one of the commissioners, and every witness so examined and wilfully giving false evidence on any material point shall be deemed guilty of and liable to the penalties of perjury. When the prosecution is not conducted on behalf of Government, the prosecutor may himself give evidence for the prosecution and may be examined for the defence.

Notes of oral evidence.

18. The commissioners or some person appointed by them shall take notes in English of all the oral evidence, which shall be read aloud to each witness by whom the same was given, and if necessary explained to him in the language in which it was given, and shall be recorded with the proceedings.

Inquiry when closed with defence.

Prosecutor when entitled to reply and give evidence.

Accused not entitled to adjournment.

19. If the person accused makes only an oral defence, and exhibits no evidence, the inquiry shall end with his defence; if he records a written defence, or exhibits evidence, the prosecutor shall be entitled to a general oral reply on the whole case, and may also exhibit evidence to contradict any evidence exhibited for the defence, in which case the person accused shall not be entitled to any adjournment of the proceedings, although such new evidence were not included in the list furnished to him.

Power to require amendment of charge and to adjourn.

20. When the commissioners shall be of opinion that the articles of charge, or any of them, are not drawn with sufficient clearness and precision, the commissioners may, in their discretion, require the same to be amended, and may thereupon, on the application of the person accused, adjourn the

[a] See Act No. X of 1873, s. 5.

inquiry for a reasonable time. The commissioners may also, if they think fit, adjourn the inquiry from time to time, on the application of either the prosecutor or the person accused, on the ground of the sickness or unavoidable absence of any witness or other reasonable cause. When such application is made and refused, the commissioners shall record the application, and their reasons for refusing to comply with it.

Reasons for refusing adjournment to be recorded.

21. After the close of the inquiry, the commissioners shall forthwith report to Government their proceedings under the commission, and shall send with the record thereof their opinion upon each of the articles of charge separately, with such observations as they think fit on the whole case.

Report of commissioners' proceedings.

22. The Government, on consideration of the report of the commissioners, may order them to take further evidence, or give further explanation of their opinions. It may also order additional articles of charge to be framed, in which case the inquiry into the truth of such additional articles shall be made in the same manner as is herein directed with respect to the original charges. When special commissioners have been appointed, the Government may also, if it thinks fit, refer the report of the commissioners to the Court or other authority to which the person accused is subordinate, for their opinion on the case; and will finally pass such orders thereon as appear just and consistent with its powers in such cases.

Power to call for further evidence or explanation.

Inquiry into additional articles of charge.

Reference of report of special commissioners.

Final orders.

23. The word 'Government' as used in this Act means the Governor General in Council, the Governor or Deputy Governor of the Presidency of Fort William in Bengal, the Governor in Council of the Presidencies of Fort St. George and Bombay, respectively, and the Lieutenant-Governor of the North-Western Provinces of Bengal, whose sanction is necessary for the removal of the person accused.

'Government' defined.

24.[a] Nothing in this Act shall be construed to repeal any Act or Regulation in force for the suspension or dismissal of Principal and other Sadr Amíns or of Deputy Magistrates or Deputy Collectors, but a commission may be issued for the trial of any charge against any of the said officers, under this Act, in any case in which the Government shall think it expedient.

Saving of enactments as to dismissal of certain officers.

Commission under Act for their trial.

25. Nothing in this Act shall be construed to affect the authority of Government, for suspending or removing any public servant for any cause without an inquiry under this Act.

Saving of power of removal without inquiry under Act.

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[a] Repealed, as to Lower Provinces and North-Western Provinces of Bengal, by Act No. XVI of 1868, section 1.

ACT No. VIII OF 1851.

Passed on the 4th July 1851.

An Act for enabling Government to levy Tolls on Public Roads and Bridges.[a]

Preamble.

WHEREAS it is expedient to enable Government to levy Tolls upon Roads and Bridges, It is enacted as follows :—

1. [*Repealed by Act No. XIV of* 1870.]

Power to cause levy of tolls on roads and bridges within certain rates,

2. The Governor of the Presidency of Fort William in Bengal, the Lieutenant-Governor of the North-Western Provinces of Bengal, the Governor of the Presidency of Fort St. George in Council, and the Governor of the Presidency of Bombay in Council, may cause such rates of toll, not exceeding the rates mentioned in the schedule annexed to this Act, as they respectively think fit, to be levied upon any road or bridge which has been, or shall hereafter be made or repaired at the expense of the Government; and

and to appoint collectors.

may place the collection of such tolls under the management of such persons as may appear to them proper: and all persons employed in the management and collection of such tolls shall be liable to the same responsibilities, as would belong to them, if employed in the collection of the land revenue.

Collectors' responsibilities.

Their powers for recovery of toll.

3. In case of non-payment of any such toll on demand, the officers appointed to collect the same may seize any of the carriages or animals on which it is chargeable, or any part of their burden of sufficient value to defray the toll; and, if any toll remains undischarged for twenty-four hours, with the cost arising from such seizure, the case shall be brought before the officer appointed to superintend the collection of the said toll, who may sell the property seized for discharge of the toll, and all expenses occasioned by such non-payment, seizure and sale, and cause any balance that may remain to be returned, on demand, to the owner of the property; and the said officer, on receipt of the property, shall forthwith issue a notice that, at noon of the next day, exclusive of Sunday, or any close holiday, he will sell the property by auction.

Release of seized property on tender of dues.

Provided that if, at any time before the sale has actually begun, the person whose property has been seized shall tender the amount of all the expenses incurred, and of double the toll payable by him, the said officer shall forthwith release the property seized.

Exemptions from payment of toll.

4. No tolls shall be paid for the passage of troops and military stores and equipages on their march, or of police officers on duty, or of any person or property in their custody; but no other exemption from payment of the tolls levied under this Act shall be allowed.

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[a] See Act No. XV of 1864.

5. All police officers shall be bound to assist the toll collectors, when required, in the execution of this Act; and, for that purpose, shall have the same power which they have in the exercise of their common police duties. Assistance of collectors by police officers.

6. Every person, other than the persons appointed to collect the tolls under this Act, who shall levy or demand any toll on any public road or bridge, or for passing through any bázár situated thereon, and also every person who shall unlawfully and extortionately demand, or take any other, or higher toll than the lawful toll, or under colour of this Act seize or sell any property, knowing such seizure or sale to be unlawful, or in any manner unlawfully extort money, or any valuable thing from any person under colour of this Act shall be liable on conviction before a Magistrate, to imprisonment for any term not exceeding six calendar months, or to fine not exceeding two hundred rupees, any part of which fine may be awarded by the Magistrate to the person aggrieved: but this remedy shall not be deemed to bar, or affect his right to have redress by suit in the civil Court of the zila. Penalty for offences under Act. Compensation to person aggrieved. Saving of his right to sue.

7. A table of the tolls authorized to be taken at any toll-gate or station shall be put up in a conspicuous place near such gate or station legibly written or printed in English words and figures, and also in those of the vernacular language of the district, to which shall be annexed, written or printed in like manner, a statement of the penalties for refusing to pay the tolls and for taking any unlawful toll. Exhibition of table of tolls, and statement of penalties.

8. The tolls, levied under this Act, shall be deemed public revenue; but the net proceeds thereof shall be applied wholly to the construction, repair and maintenance of roads and bridges, within the presidency in which they are levied. Application of proceeds of tolls.

SCHEDULE.[a]

On every four-wheeled Carriage on Springs, ...	2 Rupees.
On every two-wheeled Carriage on Springs (except Native Hackeries), ...	1 Rupee.
On every Native Hackery on Springs, ...	2 Annas.
On every four-wheeled Carriage without Springs, ...	6 Annas.
On every two-wheeled Carriage without Springs, ...	4 Annas.
On every Cart and Hackery not on Springs, and having wheels of less diameter than three feet six inches and tyres less in breadth than three inches, ...	8 Annas.

[a] Not in force in places to which Act No. XV of 1864 has been extended.

On every Cart and Hackery not on Springs and not having wheels of less diameter than three feet six inches, and tyres less in breadth than three inches, ...	2 Annas.
Buffalos or Bullocks per head, ...	6 Pie.
On every Elephant, ...	1 Rupee.
On every Camel, ...	4 Annas.
On every Horse, ...	1 Anna.
On every Tattu, ...	6 Pie.
On every score of Sheep or Goats, ...	2 Annas.
On every herd of Swine per hundred, ...	4 Annas.
On every Mule, ...	3 Pie.
On every Ass, ...	2 Pie.
On every Palanquin or Tonjon with Bearers, ...	1 Rupee.
On every Palna or small Native Palanquin with Bearers, ...	4 Annas.
On every Native Dúli with Bearers, ...	2 Annas.
On every Person carrying a load for hire, ...	2 Pie.

N. B.—Animals drawing any vehicle for which toll can be demanded are not to be also charged with toll.

ACT No. VIII of 1852.

Passed on the 6th February 1852.

An Act for remunerating the Sheriffs of Calcutta, Madras, and Bombay, for the execution of Mofussil Process under Act XXIII of 1840.

Preamble.

For making better provision for the Sheriffs of Calcutta, Madras and Bombay, in remuneration for the execution of legal process issued by Courts out of the said towns respectively, It is enacted as follows:

Sadr Courts to make and amend table of fees of Sheriffs for executing Mofussil process,

and of allowances for advertisements, &c.

By whom and when payable.

1. The several Sadr Courts of the presidency of Fort William in Bengal, and the Sadr Courts of the Madras and Bombay presidencies respectively, shall make, and from time to time amend, a table of reasonable fees, to be taken on account of the execution by the Sheriff in such presidency of any legal process issued by any Court, Judge, or Magistrate, beyond the jurisdiction of the several Supreme Courts established by Royal Charter in Calcutta, Madras, and Bombay, and of the sums to be allowed for costs of advertisements or other notifications of sales of property, according to the amount of the decrees to be satisfied by such sales,—which fees and sums shall be payable by the party applying for the process before it is sent to the Sheriff for execution, and shall be deemed costs in the cause.

2. The said table of fees and sums, when made or amended as aforesaid, shall be submitted by the Sadr Court of the Lower Provinces of the Presidency of Fort William to the Governor of Bengal, and by the Sadr Court of the North-Western Provinces of the said Presidency to the Lieutenant Governor of those Provinces, and by the Sadr Courts of Madras and Bombay respectively to the Governor in Council of the Presidencies in which such Courts respectively have jurisdiction, for his approval; and the said table of fees and sums shall have full force and effect, and the fees and sums therein mentioned may be lawfully demanded and taken, from and after the approval thereof by the said Governor, Lieutenant Governor, or Governor in Council, as the case may be.

Submission of table for approval.

When to have force.

3. Every such Court, Judge, and Magistrate, issuing process as aforesaid, shall cause a separate account to be kept of the amount of all fees and sums so paid, and shall from time to time, as directed by Government, cause the amount thereof to be paid into the local treasury.

Account of fees, &c.

Payment into treasury.

4. The Government of each of the presidencies and provinces aforesaid shall twice in each year account for and pay over to the Sheriff, for the time being, the amount of fees and sums so paid, after deducting all necessary expenses of receiving and keeping account thereof, and remitting the nett proceeds thereof to Calcutta, Madras, or Bombay, as the case may be; or, where the amount has accrued in the shrievalty of more than one Sheriff, shall apportion the sum paid accordingly between the Sheriff for the time being, and the then late Sheriff.

Payment to Sheriff.

5. The said Governments respectively may compound with the Sheriff for a monthly payment to be made to him instead of such fees and sums, and during such composition may appropriate the said fees and sums to the purposes of Government.

Composition with Sheriff.

6. Over and above such fees and sums, or any such monthly payment received instead of such fees and sums, the Sheriff shall be entitled to a fee after the rate of two rupees eight annas for each hundred rupees of the value of any goods or property taken and sold by him in execution of any process issued by any Court, Judge, or Magistrate beyond the local jurisdiction of the said Supreme Courts, which fee shall be taken to cover all expenses connected with the seizure and sale, except the expense of advertisements.

Additional fee for effecting sales.

7. No fee, estimated upon the amount of the sum for which any person is taken in execution, shall be payable to the Sheriffs of Calcutta, Madras, or Bombay, or any of their bailiffs, for taking the body of any person in execution on any process issued by any Court, Judge, or Magistrate out of

Fee for execution against person.

the local jurisdiction of the said Supreme Courts respectively; but instead thereof, such fees shall be payable to the Sheriff for taking the body of any person in execution of any such process as shall be settled, from time to time, by the Sadr Court as aforesaid.

Liability of Sheriff in case of escape of person taken in execution.

8. If any person taken in execution on any such process shall escape out of the legal custody of the Sheriff, the Sheriff shall not be liable to an action of debt for such escape, but shall be liable only to an action upon the case for damages in consequence of such escape sustained by the person or persons at whose suit the prisoner was taken.

ACT No. XVII of 1852.

Passed on the 12th March 1852.

An Act to diminish the expense and delay of proceedings in Her Majesty's Courts within the Territories of the East India Company.[a]

Persons interested in questions cognizable in Her Majesty's Courts may state special cases for the opinion of such Courts.

1. It shall be lawful for persons interested or claiming to be interested in any question cognizable in Her Majesty's Courts within the territories of the East India Company, on the equity, plea, ecclesiastical or admiralty sides thereof respectively, and including among such persons all lunatics, married women, and infants in the manner and under the restrictions hereinafter contained, to concur in stating such question in the form of a special case for the opinion of the said Courts, and it shall also be lawful for all executors, administrators, representatives, and trustees to concur in such case.

How lunatic may concur.

2. The committee of the estate of any lunatic interested or claiming to be interested in any such question as aforesaid may, after having been authorized in that behalf by the Court or any Judge thereof in which such special case is filed, concur in such case in his own name, and in the name and on the behalf of the lunatic.

How married women may concur.

3. A husband interested or claiming to be interested in right of his wife in any such question as aforesaid may concur in such case in his own name and in the name of his wife where the wife has no claim to any interest distinct from her husband, and a married woman having or claiming any interest in any such question as aforesaid distinct from her husband may in her own right concur in such case, provided that her husband also concurs therein; but nothing herein contained shall be construed so as to require the husband of a Muhammadan or Hindú female to concur in such case.

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[a] Copied from 13 & 14 Vic., c. 35.

4. The guardian of any infant interested or claiming to be interested in any such question as aforesaid may concur in such case in the name and on the behalf of the infant, unless such guardian has an interest in such question adverse to the interest of the infant therein.

How infant may concur.

5. It shall be lawful for the said Courts, by order to be made in the matter of any lunatic not found such by inquisition, or in the matter of any infant, upon the application of any person on the behalf of such lunatic, or upon the application of such infant, by motion or petition, to appoint any person shown by affidavit to be a fit person, and to have no interest adverse to the interest of the lunatic or infant, to be the special guardian of such lunatic or infant for the purpose of concurring in such case in the name and on behalf of the lunatic or infant, and any such person so appointed may lawfully so concur. Provided always, that it shall be lawful for the said Courts to require notice of such application to be given to such person, if any, as the Court shall think fit.

How special guardian to be appointed for a lunatic not found such by inquisition and for infant.

6. In any case in which any such order as aforesaid shall have been made by the said Courts, in the matter of any infant without notice to the guardian of the infant, it shall be lawful for the said Courts, if they shall respectively think fit so to do, to discharge such order upon the application of such guardian, by motion or petition; and the said Courts, if they shall respectively think fit, may thereupon appoint some other fit person to be the special guardian of such infant for the purpose of such special case, and may also give such directions as may be necessary for substituting in such special case either the name of the guardian so applying, or of the special guardian so appointed, in lieu of the name of the special guardian so displaced. Provided always, that the discharge of any order appointing a special guardian shall not invalidate anything which shall in the meantime have been done by such special guardian, unless the Court shall, upon notice to all parties, specially so direct.

Order to appoint special guardian of an infant may be discharged by Court if made without notice.

7. Every such special case shall be entitled as a cause between some or one of the parties interested or claiming to be interested as plaintiffs or plaintiff, and the others or other of them as defendants or defendant; and in the title to such cases, lunatics and infants shall be described as such, and their committees, guardians, or special guardians named; and where in any such case a married woman is named as a plaintiff, and her husband as a defendant thereto, a next friend of such married woman shall be named in the title to such case; but nothing herein contained shall be construed so as to require a next friend of any Hindú or Muhammadan married woman to be named in such title.

How special cases to be entitled.

Form of special case.

8. Every such special case shall concisely state such facts and documents as may be necessary to enable the Court to decide the question raised thereby; and upon the hearing of such case, the Court and the parties shall be at liberty to refer to the whole contents of such documents; and the Court shall be at liberty to draw from the facts and documents stated in any such special case any inference which the Court might have drawn therefrom if proved in a cause.

Special case to state how guardian constituted, and the concurrence of married women.

9. Every such special case to which an infant or lunatic is a party by his guardian or special guardian, shall also state how such guardian or special guardian was constituted; and where any married woman having or claiming any interest distinct from her husband is a party to such case, it shall be stated therein that she concurs in such case in her own right.

Special case to be signed by Counsel and filed, and appearances to be entered for defendants.

10. Every such special case shall be signed by Counsel for all parties, and shall be filed in the same manner as bills, plaints, or allegations are filed, and the defendants may appear thereto in the same manner as defendants appear to bills, plaints, or allegations, and no defendants shall be required to take an office copy of a special case, but an office copy thereof shall be taken by the plaintiff.

Parties to be bound by statements after defendants have appeared to special case.

11. After a special case shall have been filed, and the defendants shall have appeared thereto, all the parties to such special case shall be subject to the jurisdiction of the Court in the same manner as if the plaintiff in the special case had filed a bill, plaint, or allegation against the parties named as defendants thereto, and such defendants had appeared to such bill, plaint, or allegation, and upon the special case being filed and appearances entered thereto as aforesaid, all parties to such special case, shall, for the purposes of such special case, be bound by the statements therein.

How cases to be set down for hearing.

12. So soon as all the defendants shall have appeared to the special case, the same may be set down for hearing, and subpœnas to hear judgment or notices of hearing, issued and served according to the practice of the said Courts.

Upon hearing Court to determine question and make declaration.

13. It shall be lawful for the said Court upon the hearing of any such special case as aforesaid, to determine the questions raised therein or any of them, and, by decree or judgment, to declare its opinion thereon, and so far as the case shall admit of the same, upon the right involved therein, without proceeding to administer any relief consequent upon such declaration, and every such declaration of the said Court contained in any such decree or judgment shall have the same force and effect as such declaration would have had, and shall be binding to the same extent as such declaration would have been if contained in a decree or judgment made in a suit between the same

parties instituted by bill, plaint, or allegation; provided always, that if upon the hearing of such special case as aforesaid, the Court shall be of opinion that the statements contained therein so far as the same affect the interest of any married woman, infant, or lunatic are not true, or that the questions raised thereby or any of them cannot properly be decided upon such case, the same may be at such hearing, with the consent of all parties thereto, and of the Court, amended, so as properly to raise such questions, or the said Court may refuse to decide the same.

Proviso that Court may refuse to decide.

14. Every executor, administrator, representative, trustee, or other person making any payment or doing any act in conformity with the declaration contained in any decree or judgment made or pronounced upon a special case, shall in all respects be as fully and effectually protected and indemnified by such declaration, as if such payment had been made or act done under or in pursuance of the express order of the said Court made in a suit, action, or proceeding between the same parties instituted by bill, plaint, or allegation, save only as to any rights or claims of any person in respect of matters not determined by such declaration.

Protection to be afforded to trustees by declaration.

15. Where any person shall be desirous to have a special case re-heard, or to appeal from the decision thereon, it shall be lawful for the said Courts respectively, upon application for that purpose, either at the time of the decree or judgment upon such special case being made, or at any time afterwards, and upon such conditions, if any, as the Court shall think fit, to order that the declaration contained in such decree shall not be acted upon for such time as the said Courts respectively shall think just.

The Court may suspend the acting upon declaration.

16. The filing of a special case, and the entering of appearances thereto by the persons named as defendants therein, shall be taken to be a *lis pendens*.

Special case to be a *lis pendens*.

17. Any documents referred to in a special case, and any copies thereof or extracts therefrom, identified by the signature of the solicitors for all parties, may be produced and read at the hearing of such case, without further proof; and it shall be lawful for the said Courts respectively, at any time after the filing of the special case, and the entering of appearances thereto by the persons named as defendants therein, to order any document, which may be admitted thereby to be in the possession of any party to such case, to be deposited and produced in such manner and for such purposes as the said Courts respectively shall think fit.

Mode of identifying documents.

Power to order production.

18. It shall be lawful for the said Courts upon the application of the executors, administrators or representatives in estate of any deceased person, by order to be made upon motion or petition of course, and to be in the form or to the effect set forth in the schedule hereto, with such variations as circum-

Court, on application of executors or administrators, may by order of course

direct it to be referred to a Master to take an account of debts and liabilities.

stances may require, to refer it to the Master of the said Courts[a] respectively to take an account of the debts and liabilities affecting the estate of such deceased person, and to report thereon; provided always, that no such order shall be made until the expiration of one year next after the death of such deceased person, or pending any proceedings to administer the estate of such person, and in case at any time after the making of such order, any decree or order for administering the estate of such deceased person shall be made, it shall be lawful for the said Courts respectively, by such decree or order, to stay or suspend the proceedings under such order of course on such terms and conditions, if any, as to the said Courts respectively shall seem just.

Master's report may be objected to by motion to the Court, of which notice shall be given.

19. It shall be lawful for any person who may have come in before the Master under any such order, and claimed to be a creditor upon the estate of the deceased person, or to have any demand upon such estate by reason of any liability, and whose debt or claim may not have been wholly allowed by the said Master, to apply to the Court making such order by motion, of which notice shall be given within fourteen days after the filing of the Master's report, to have such claim allowed by such Court, either wholly or partially; and it shall be lawful for the said executors, administrators or representatives in estate, and for any creditor of the deceased person who may be authorized by special leave of the said Court so to do, to apply to the said Court by motion, of which notice shall be given within the time aforesaid, to have any debt or claim allowed by the said Master disallowed by the said Court, either wholly or partially, and, at the expiration of fourteen days after the filing of the said report, the same shall, except as to any debt or claim as to which any such notice as aforesaid may have been given, be absolute, as if the same had been confirmed by order of the said Court.

Proceeding of the Court on such motion.

20. Upon the hearing of any such motion as aforesaid, the said Courts respectively may either dismiss such motion, or may order the debt or claim to which such motion relates to be allowed or disallowed, as the case may be, and either wholly or partially, or may direct further inquiry or further proceedings, by way of action or otherwise, touching such debt or claim, and after such inquiry or proceedings may, upon further motion, deal with such debt or claim as to the said Courts respectively shall seem just: provided always, that no new evidence shall be received by the said Courts upon the hearing of any such motion without special leave of the said Courts.

If debts or certain liabilities allowed, and not paid

21. In case any debt or any certain liability shall have been allowed as aforesaid, and shall not within fourteen days after the report has become absolute as to such debt or liability, or after the same shall have been allowed

[a] See Act No. XVIII of 1863, s. 5.

by the said Court, be paid or provided for by appropriation to the satisfaction of the person who has established such liability, it shall be lawful for the said Courts respectively by order to be made in case of any debt remaining due, upon the application by motion or petition of the person to whom the debt remains due, and on notice to the executors, administrators, or representatives in estate, and in case of any certain liability remaining unprovided for by appropriation upon the application by motion or petition of the person by whom such liability has been established, or of the executors, administrators or representatives in estate, and on notice by the party applying to the other of them, to order payment of the debts which may have been allowed and remain unpaid, and to provide for the certain liabilities which may have been allowed and remain unprovided for, in like manner as the same could or might have been paid or provided for in a suit for that purpose instituted by bill, or to refer it to the Master to take an account of the debts and certain liabilities allowed as aforesaid which remain unpaid or unprovided for, and also the usual accounts of the estate of the deceased person, with all usual and proper directions; and every such order shall have the same force and effect and shall be prosecuted and carried on in like manner as a decree in a creditor's suit instituted by bill.

or provided for, order may be made for payment or accounts.

22. Nothing in sections 18 and 21 of this Act contained shall be construed so as to prevent any of Her Majesty's Courts from taking such accounts as aforesaid in any manner in which, according to the usual practice of such Courts, the same might have been taken if directed by decretal order made in a suit.

Accounts to be taken according to usual practice of the Courts.

23. In case any contingent liability shall be allowed by the said report or by the said Courts respectively, it shall be lawful for the said Courts, by order, to be made upon the application of the executors, administrators, or representatives in estate, by motion or petition, on notice to the person who may have established such contingent liability, to order such sum of money, part, or proceeds of part, of the estate of the deceased person, as to the said Courts respectively shall seem just, to be set apart and appropriated for answering such contingent liability, and to give such directions as the said Courts shall think fit touching the payment of such sum of money into Courts, and the investment thereof, and the payment, application, or accumulation of the interest or dividends thereof in the mean time and until the same shall be required to answer such liability, and when such liability shall be ascertained or determined, to give such directions as to the payment of such sum out of Court as the said Courts respectively shall deem right: Provided always, that no order to be made as aforesaid shall in any manner bind the

Court, on application of executors or administrators, &c., may direct appropriation of money to answer contingent liability.

assets so appropriated as against the persons entitled to the estate of the deceased subject to the contingent liability ; and any person interested in such appropriated assets may apply to the Court touching the same, as he may be advised.

Court may restrain proceedings against executors, administrators, &c.

24. After the filing of such report as aforesaid, it shall be lawful for the said Courts respectively upon the application of the executors, administrators or representatives in estate of the deceased, by order, to be made on motion, to restrain by injunction any proceedings at law against them by any person having or claiming to have any demand upon the estate of the deceased by reason of any debt or liability other than the persons who may have established contingent liabilities under the said order for which no appropriation may have been made.

Protection to be afforded to executors, administrators, &c.

25. In case no debt or liability, or no debt or liability other than a contingent liability, shall have been allowed as aforesaid, or in case any debt or liability other than as aforesaid shall have been allowed as aforesaid, then after the same shall have been paid or provided for by appropriation as aforesaid, all payments made by the executors, administrators, or representatives in estate, or any of them, on account of the estate of the deceased person, and all dispositions of such assets made by them or any of them on account of such estate, shall, as against all persons having or claiming to have any demand upon such estate by reason of any debt or liability, other than persons who may have established under the said order any contingent liability for which no such appropriation as aforesaid may have been made, be as good and effectual as if the same had been made under a decree of the said Courts respectively :

Provided always, that nothing herein contained shall in any manner affect or prejudice the rights of any creditor or other person having any demand or claim upon the estate of the deceased against any assets so paid or disposed of, or against the persons to whom such payment or disposition may have been made, or against any assets appropriated under the provisions of this Act, and the appropriation of which, if made under a decree of the said Court, in a suit to which he was not a party, would not have been binding upon him.

Exceptions for scandal, impertinence and insufficiency to be heard by the Court.

26. All exceptions for scandal, impertinence, and insufficiency, which according to the existing practice of the said Courts are referred to the Masters of the said Courts, shall not any longer be so referred, but shall be heard and determined in the first instance by the said Courts, or any Judge thereof.

Power for Court, not-

27. Notwithstanding any rule or practice of the said Courts to the contrary, it shall be lawful for the said Courts respectively, at the hearing of

any cause or of any further directions therein, to receive proof by affidavit or otherwise of all proper parties being before the Court, and of all such matters as are necessary to be proved for enabling the said Courts respectively to order payment of any moneys belonging to any married woman, and of all such other matters, not directly in issue in the cause, as in the opinion of the said Courts respectively may safely and properly be so proved.

withstanding any rule, &c., to the contrary, to receive proof by affidavit.

28. It shall be lawful for the said Courts respectively, from time to time, to make, rescind, and alter general rules and orders for better enabling the opinion of the said Courts respectively to be obtained on special cases, and for effectuating the purposes of this Act as to the debts and liabilities of deceased persons, and for making any provisions which may be or be deemed necessary or proper as to amendment, revivor and supplemental matter or relief, and as to costs of any proceedings under or in pursuance of this Act, and for regulating the times and form and mode of procedure and practice of the said Courts in respect of the matters to which this Act relates, and every of them, and so far as may be found expedient for altering the course of proceeding hereinbefore prescribed in respect to such matters or any of them, and generally for assimilating the practice of the said Courts respectively to that of the High Court of Chancery in England.

Her Majesty's Courts to make general rules and orders from time to time.

29. All such general rules and orders shall be laid before the Governor General of India in Council within one month after the making and issuing of the same, and every such rule or order shall, from and after the time in that behalf to be appointed by the said Courts respectively, and if no time shall be so appointed, then from and after the making thereof, be binding and obligatory on the said Courts respectively, and be of like force and effect as if the provisions therein contained had been expressly enacted by the Governor General of India in Council. Provided always, that if the said Governor General of India in Council shall, by any resolution passed at any time within six months after such rules, orders, and regulations shall have been laid before him, resolve that the whole or any part of such rules or orders ought not to continue in force, in such case the whole or such part thereof as shall be so included in such resolution shall, from and after the time that such resolution is notified to the said Court, cease to be binding and obligatory on the said Court; provided that every such rule or order so made or expressed to be made in pursuance of this Act which shall not be laid before the Governor General of India in Council within the time by this Act limited for that purpose shall, from and after the expiration of such time, be absolutely void and of no effect. Provided always, that nothing in this clause contained shall be construed so that the said rules or orders should not

Rules and orders to be laid before the Governor General in Council, and to be binding from the time appointed or from the making, unless objected to.

be transmitted as heretofore to Her Majesty in Privy Council for approbation.

Until rules or orders are made, and if not applicable when made, practice to be according to this Act and practice of the Courts.

30. In the mean time and until any such general rules or orders shall be made, and in so far as the same, when made, shall not be applicable, the proceedings under this Act shall be governed and regulated by the provisions herein contained, so far as the same extend, and in so far as the same do not extend shall, as well with respect to the persons who ought to be made parties to special cases as in every other respect, be governed and regulated by the rules, orders and practice of the said Courts respectively, in suits instituted by bill, so far as the same can be applied thereto; and subject to such general rules and orders as aforesaid, the costs of all proceedings under this Act, shall be in the discretion of the said Courts respectively.

Decrees and orders to be subject to appeal, &c.

31. All decrees and orders made under the provisions of this Act, shall be subject to rehearing, appeal, and review, and may be discharged and varied in the same and the like manner as decrees and orders of the said Courts made in suits instituted by Bill.

Interpretation of terms.

32. The following words and expressions in this Act shall have the several meanings hereby assigned to them, unless there be something either in the subject or in the context repugnant to such construction:

Words importing the singular number only shall include the plural number, and words importing the plural number only shall include the singular number:

Words importing the masculine gender only shall include females.

The expression "Her Majesty's Courts" or "Courts" shall mean and include Her Majesty's Supreme Courts of Judicature at Bengal, Madras and Bombay, and also the Court of Judicature of Prince of Wales' Island, Singapore and Malacca:

The word "Lunatic" shall include idiots and persons of unsound mind, and whether found such by inquisition or not:

The word "Guardian" shall mean father or testamentary guardian, or guardian appointed by any of Her Majesty's Courts (not being a special guardian appointed under the provisions of this Act).

Commencement of Act.

33. This Act shall commence and take effect from and after the tenth day of April, one thousand eight hundred and fifty-two.

SCHEDULE REFERRED TO BY THE FOREGOING ACT.

(Date.)

In the matter of *A. B.* late of in Banker (or as the case may be), deceased.

Upon motion this day made into this Court by Mr. , of , Counsel for *C. D.* of , the executor (*or* administrator) of the abovenamed *A. B.* (*or* upon the humble petition of *C. D.* of the executor) (*or* administrator) of the said *A. B.* this day preferred unto the Supreme Court of Judicature at (for the reasons therein contained,) it is ordered; that it be referred to the Master of this Court to take an account of the debts and liabilities affecting the *(personal or the real estate of the said A. B. or his moveable and immoveable estate as the case may be)*, and to compute interest on such of the said debts and liabilities as carry interest, after the rate of interest the same respectively carry; and the said Master is to cause an advertisement to be published in the Gazette and such other public papers as he shall think fit for the persons claiming in respect of any such debts or liabilities, to come in before the said Master and prove their debts and claims, and he is to fix a peremptory day for that purpose; and such of the creditors as shall not come in and prove their debts and claims by the time so to be limited, are to be excluded the benefit of this order; and it is ordered, that the Master do distinguish debts from liabilities, and liabilities certain from liabilities contingent; and it is ordered, that the said estate of the said *A. B.* be applied in payment and satisfaction of such debts and liabilities of the said *A. B.* in a due course of administration; and for the better taking the said accounts and discovery of the matters aforesaid the parties are to produce before the Master, upon oath, all deeds, books, papers, and writings in their custody or power relating thereto, and are to be examined upon interrogatories or *viva voce* as the said Master shall direct; and any of the parties are to be at liberty to apply to the Court as there shall be occasion.

ACT No. XXX OF 1852.

Passed on the 16th July 1852.

An Act for the Naturalization of Aliens.

WHEREAS it is expedient to provide for the naturalization of aliens resident in the territories under the government of the East India Company, It is enacted as follows:— Preamble.

1. Any person whilst actually residing in any part of the territories under the government of the East India Company may present a memorial to Government,[a] praying that the privileges of naturalization may be conferred upon him. Any resident may petition for naturalization.

2. Such memorial shall state to the best of the knowledge and belief of the memorialist, his age, place of birth, place of residence, profession, trade Contents of petition.

[a] See sec. 12 *infra*.

or occupation, the length of time during which he has resided within the said territories, that he is settled in the said territories, or is residing within the same with intent to settle therein, and any other particulars which the Government may require to be stated therein, and such memorial shall be in writing and signed by the memorialist, and accompanied by an affidavit sworn by him, verifying the truth of the statements contained therein.

Affidavit to accompany.

Power to require further evidence.

3. The memorial shall be considered by the Government to whom it shall be presented, who shall inquire into the circumstances of the case, and may require such evidence either by affidavit or otherwise as they may deem proper, in addition to the before-mentioned affidavit of the memorialist, to prove the truth of the statements contained in such memorial.

Issue of certificate granting rights.

Limitation.

4. The Government may, if they shall think fit, issue a certificate in writing reciting such of the contents of the memorial as they may consider to be true and material, and granting to the memorialist all the rights, privileges and capacities of naturalization under this Act, except such rights, privileges or capacities, if any, as may be specially excepted in such certificate.

Filing copy and affidavit.

5. The certificate shall be delivered to the memorialist; and a copy or duplicate thereof, together with the memorial upon which the same shall be obtained, and any affidavit which may accompany such memorial or be produced in support thereof, shall be filed by the secretary to the Government, or such other officer as the Government may direct; and such secretary or officer shall keep an alphabetical list of all persons who may be naturalized by such Government.

List of persons naturalized.

Cancelment of certificate for false statement.

6. If any material statement contained in such memorial shall be false, the Government may, if they think fit, by an order in writing, declare the certificate issued upon such memorial to be null and void to all intents and purposes, except such purposes, if any, as may be specially excepted in such order; and from and after such order all the rights, privileges, and capacities derived through such certificate shall cease to exist.

Ceasing of rights thereunder.

Fees.

7. Such fees shall be payable in respect of the proceedings hereby authorized as shall be fixed by the Government.

Rights, &c., derived from certificate.

8. Upon obtaining such certificate, and taking and subscribing the oath as hereinafter prescribed, the memorialist shall within the said territories under the government of the East India Company be deemed a natural born subject of Her Majesty as if he had been born within the said territories, and shall be entitled within the said territories to all the rights, privileges and capacities of a subject of Her Majesty born within the said territories, except such rights, privileges and capacities, if any, as may be specially excepted in such certificate.

9. [*Repealed by Act No. XVI of* 1874.]

10. Within sixty days from the day of the date of such certificate the memorialist named in such certificate shall take and subscribe the oath contained in the schedule annexed to this Act. Time for taking oath of allegiance.

11. Such oath, as well as any other oath or affidavit required by this Act, may be administered by any Magistrate or Justice of the Peace within the limits of his jurisdiction, or by any other person to be appointed for that purpose by Government, and the person who shall administer the oath mentioned in the schedule to this Act annexed shall grant to the memorialist a certificate in writing of his having taken and subscribed such oath, and of the date of his taking and subscribing the same, and shall forward to the Government the oath so taken and subscribed, together with a duplicate of such certificate, which oath and duplicate certificate shall be filed and kept with the memorial. Administration of such oath. Certificate of subscription of oath.

12. The word "Government" in this Act shall be deemed to mean the person or persons for the time being lawfully entitled to administer the executive government in that part of the said territories in which the memorialist shall reside at the time of presenting such memorial. The word "Magistrate" shall include any person lawfully exercising the powers of a Magistrate, and words denoting the masculine gender shall include the feminine. Interpretation of "Government" and "Magistrate." Gender.

13. In every case in which the word "oath" or "affidavit" is used in this Act, an affirmation to the same effect as the oath or affidavit required shall be sufficient in cases where the person required to make such oath or affidavit shall be a person allowed by law to affirm in civil cases, and in every such case such affirmation shall be made before the person authorized to administer the oath, and the word "oath" or "affidavit" wherever used in this Act shall include such affirmation. Substitution of affirmation for oath or affidavit.

SCHEDULE.

Oath.

I, A. B., of *(here state the description of the party)* do swear *(or being one of the persons allowed by law to affirm in civil cases, do affirm,)* that I will be faithful and bear true allegiance to the Sovereign of the United Kingdom of Great Britain and Ireland, and of these territories as dependent thereon, and that I will be true and faithful to the East India Company.

(Signed) A. B.

ACT No. XXXIII OF 1852.

Passed on the 27th August 1852.

An Act to facilitate the enforcement of judgments in places beyond the jurisdiction of the Courts pronouncing the same.

Mode of enforcing judgments of certain Courts in places beyond their jurisdiction.

1. EVERY party, who shall have obtained a judgment in any Court of Her Majesty, or of the East India Company, in any part of the territories under the government of the East India Company, or in any Court established by the authority of the Governor General of India in Council in the territory of any foreign Prince or State, and who shall be unable to enforce or obtain satisfaction of the same by execution within the jurisdiction of such Court, may enforce or obtain execution of the same in any part of the said territories under the government of the East India Company in manner following:

Application to Court by judgment-holder for copy of judgment, certificate of non-satisfaction, &c.

Documents, if granted, to be signed and sealed.

2. The party may apply to the Court, which shall have pronounced such judgment, for a copy thereof, and also for a certificate that satisfaction of such judgment has not been obtained by execution within the jurisdiction of the said Court, also for a copy of any order for execution of such judgment that may have been passed, and, if necessary, for a translation of the said judgment and order for execution into the English language. The Court, unless there be any sufficient reason to the contrary, shall cause such copy and certificate, and translation, if necessary, to be furnished, and the same shall be signed by the Judge, or one of the Judges of the Court, and sealed with the seal of the Court.

Form of certificate, if of principal civil Court.

3. If such Court shall be the principal civil Court of original jurisdiction in the district, the Judge shall describe himself accordingly in the certificate and shall also name the Court and the district.

Authentication by principal Court of documents issuing from inferior Court.

4. If the Court shall not be the principal civil Court of original jurisdiction in the district, the copy of the judgment and of the order for execution, if any, the certificate of the Judge, and the translation, if any, shall, without delay, be transmitted to the principal civil Court of original jurisdiction in the district, and the Judge, or one of the Judges of such Court shall issue a certificate under his hand and the seal of the Court, verifying the signature of the Judge of the Court in which the judgment shall have been given to the documents above-mentioned; and in such certificate the Judge signing the same shall describe himself as the Judge, or one of the Judges of the principal civil Court of the district, and shall also name the Court and the district.

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[a] Explained and amended by Act No. XXXIV of 1855. Repealed by Act No. X of 1861, except so far as it relates to the enforcement of judgments by any Court established by Royal Charter, and also except so far as it relates to the enforcement of decrees of Military Courts of Requests.

5. All copies, translations, and certificates, which may be furnished by, or transmitted to the principal civil Court of original jurisdiction in the district in which such judgment shall have been given, shall be transmitted by such Court without delay to the principal civil Court of original jurisdiction in the district in which the party may wish to have the judgment enforced or executed, and if such last-mentioned Court be the Supreme Court of Judicature of either of the presidencies, to the Prothonotary of the Court; and such Court shall cause the said documents to be filed therein, without any proof of the judgment or order for execution, or of the copies thereof, or of the translations, if any, or of the seal or jurisdiction of any Court, or of the signature of any Judge, unless the Court, to which such documents shall be transmitted, shall, under any peculiar circumstances to be specified in an order, require the same.

Transmission of documents to principal Court of district in which judgment is to be enforced.

Filing of documents therein.

6. The copy of any judgment, or of any order for execution, when filed in the Court to which it shall be transmitted for the purpose of being executed or enforced as aforesaid, shall for such purpose have the same effect as a judgment or order for execution made by such Court, and may be enforced or executed by such Court, or any Court subordinate thereto, to which it may entrust the enforcement or execution thereof.

Effect of documents when filed.

7. When application shall be made to any of the said Courts to enforce, or execute the judgment of any other Court as aforesaid, the Court to which the application shall be made, or referred, shall proceed to enforce or execute the same according to its own rules and mode of procedure in like cases; and the last-mentioned Court shall take cognizance of, and punish, all wrongful acts or irregularities done or committed in enforcing and executing such judgment; and all persons disobeying or obstructing the enforcement or execution of any such judgment, shall be punishable by such last-mentioned Court, in the same manner as if the said judgment had been pronounced by such Court.

Procedure of Court moved to enforce judgment.

Cognizance and punishment of irregularities, and of disobedience or obstruction.

8. The decrees, of which execution is to be general of any military Courts of Requests holden within the said territories under the government of the East India Company, or mentioned in section XVII. Act No. XI. 1841, may be enforced in the manner provided by this Act. No such decree, however, shall be enforced under this Act against the person of the debtor, if a soldier. In the case of a decree of a military Court of Requests the copy, decree, and certificate, and translation, if any, shall be signed by the officer commanding the station or cantonment, who shall describe himself accordingly; and no proof of the decree, or of the signature or appointment of such officer, or of the jurisdiction of the Court shall be necessary, unless the Court to which the same may be presented shall think fit, under any peculiar circumstances to be specified in an order, to require the same.

Enforcement of decrees of military Courts of Requests.

Exemption of soldiers.

Signature of documents issuing from such Courts.

9. [*Repealed by Act No. VII of* 1870, *section* 2].

Appeal from orders for execution of judgments.

10. An appeal shall lie from any order for the enforcement or execution of a judgment under this Act, in the same manner, and subject to the same rules and regulations, as if the judgment had been originally given by the Court making such order.

Interpretation-clause.

11. In this Act the word "judgment" means a judgment in a civil suit or proceeding, and includes any final decree or order in a civil suit or proceeding. The word "party" shall include any person who would be entitled to maintain a suit upon the judgment. The masculine gender shall include the feminine, and the singular number shall include the plural.

ACT No. II. OF 1853.

Passed on the 4th February, 1853.

An Act to remove doubts as to the liability of all subjects of Her Majesty to the same jurisdictions as Natives in respect of public and Police duties and public charges incident to the holders of land or their local Agents or Managers.

Preamble.

WHEREAS by virtue of Act No. IV. of 1837, it is lawful for any subject of Her Majesty to acquire and hold in perpetuity, or for any term of years, property in land, or in any emoluments issuing out of land, in any part of the territories under the government of the East India Company; and whereas doubts have arisen whether all subjects of Her Majesty acquiring or holding property in land, or in any emoluments issuing out of land, or acting as local agents or managers of such property, are subject to the same jurisdictions as Natives for enforcing the discharge of public and police duties incident to the holding of such property, or for the enforcement of public charges and assessments upon or in respect thereof; and whereas it is just and reasonable that all persons who may think fit to hold such property, or to be the local agents or managers thereof, should be liable to the public burthens and duties incident thereto, and in case of neglect or refusal to discharge the same, should be subject to the same jurisdictions as Natives; It is therefore declared and enacted as follows:

Non-exemption from public charges or duties of landholders, &c., by reason of place of birth or of descent.

1. No person whatever, being the owner, holder, or farmer of any property in land, or in any emoluments issuing out of land, in any part of the said territories, whether in perpetuity or for a term, or being a local agent or manager of any such property, is, by reason of his place of birth, or by reason of his descent, exempt from any public charge or assessment, or from any duty connected with the police, or with the salt or opium revenue, or

from any duty whatsoever of a public nature, to which he would otherwise be subject, as the owner or holder of such property, or as a local agent or manager thereof.

2. For the non-payment of any such public charge or assessment, or for the breach of any such duty as aforesaid, or for any neglect or misconduct in the discharge thereof, every person, whatever may have been his place of birth, or his descent, shall be subject to the same laws, regulations, and procedure, and to the same jurisdictions as if he were a Native of the said territories.

Amenability to laws, &c., for default in respect of such charges and duties.

ACT No. XVIII OF 1853.[a]

Passed on the 2nd December 1853.

An Act for Regulating the Sale of Spirituous Liquors, &c., in Cantonments.

WHEREAS it is expedient to regulate the sale of spirituous liquors, wine and intoxicating drugs within military cantonments, It is enacted as follows :

Preamble.

1. If within any military cantonment or within any limits around the same to which the provisions of this Act shall be extended by an order of Government to be publicly notified, any person not amenable to Articles of War or any sutler or camp-follower shall knowingly barter, sell or supply, or offer, or attempt to barter, sell or supply, any spirituous liquor, wine or intoxicating drug, to, or for the use of any European soldier, or to, or for the use of any European or Eurasian being a camp-follower or a soldier's wife without a written license from the officer commanding at the station, or from some person having sufficient authority from the commanding officer to grant such license, the person so bartering, selling, or supplying, or offering or attempting to barter, sell, or supply such spirituous liquor, wine, or intoxicating drug as aforesaid, shall be liable, on conviction before a Magistrate, to a fine not exceeding fifty rupees, or, in the discretion of the Magistrate, to imprisonment, with or without hard labour, for any period not exceeding one calendar month.

Penalty on unlicensed person bartering, &c., spirits, &c., within cantonment limits.

2. If any person convicted of an offence under section 1 of this Act shall be convicted under that section of an offence subsequently committed, he shall be liable to a fine not exceeding one hundred rupees, or to imprisonment, with or without hard labour, for any period not exceeding three calendar months ; and in such case any spirituous liquor, wine, or intoxicating drug, within such

Penalty on repetition of offence.

Confiscation.

[a] Repealed so far as it relates to the Bengal Presidency by Act No. XXII of 1864. Repealed by Madras Act I of 1866, s 41, so far as it relates to the Madras Presidency within the limits of any cantonment in which such Act shall have come into operation. Repealed by Bombay Act III of 1867, s. 2, so far as it relates to the Bombay Presidency within the limits of any cantonment in which such Act shall have come into operation.

cantonment, or limits, which at the time of the commission of such subsequent offence shall belong to, or be in the possession of such person, shall, without further proof, be deemed to be in the possession of such person for the purpose of being supplied to European soldiers contrary to the provisions of this Act, and shall be liable to be seized and confiscated.

Penalty on camp-followers, pensioners, &c., having liquor in excess of limit without permit.

Repetition of offence.

3. If any camp-follower or military pensioner or the wife or widow of any soldier, camp-follower or military pensioner shall within such cantonment or limits remove, convey, or have in his or her possession any quantity of spirituous liquor or wine, exceeding one ser or quart, without a permit, to be signed by the officer in command, or such other officer as may be appointed by him to grant permits under this Act, every such person shall be liable upon conviction to a fine not exceeding fifty rupees, and for any subsequent offence to a fine not exceeding one hundred rupees, or to imprisonment, with or without hard labour, for any term not exceeding three calendar months.

Liquor exempted from section 3.

4. Section 3 of this Act shall not apply to any liquor brought into a cantonment for the private use of any commissioned officer.

Powers of police officers in respect of offenders.

5. If any person, subject to the provisions of this Act, shall be found committing any offence contrary thereto, any police officer, authorised under this Act, may immediately, without warrant, arrest such person, and also seize any spirituous liquor, wine or intoxicating drug, together with any vessel containing the same, and any thing used for the purpose of removing, conveying, or concealing the same, which may be found in his possession, and shall thereupon, without delay, take such person, together with the things so seized, before a Magistrate or other officer having jurisdiction to punish the offender.

Punishment for obstructing, and for laxity of, police officer.

6. Any person, who shall obstruct any police officer in making any arrest, or seizure, under this Act, and any police officer, who shall not, without unreasonable delay, take the person, or thing so arrested, or seized, before a Magistrate, or other officer having jurisdiction to punish the offence, shall be liable, on conviction before a Magistrate, to a fine not exceeding one hundred rupees.

Penalty for illegal arrest or seizure.

Compensation to injured person.

7. Any police officer, who, under color of this Act, shall, without probable cause, make any arrest, or seizure, without a warrant, shall, on conviction before a Magistrate, be liable to a fine not exceeding one hundred rupees, which fine or any part of it may be ordered by the Magistrate to be paid to the person aggrieved.

Police officers not competent to act under section 5 without due authority.

8. No police officer shall be competent to act under the provisions of section 5 of this Act, unless he shall have a general, or special authority so to do, granted to him in writing by the commanding officer, or other officer empowered by him to grant the same, or by the officer in the immediate charge of the police.

9. In case of a conviction for any offence under this Act, the convicting Magistrate may adjudge any liquor, wine, or intoxicating drug, in respect of which the party shall be convicted, and any other spirituous liquor, wine, or intoxicating drug, which shall be found in his possession at the time of committing the offence, and any vessel containing the same, together with any thing used for the purpose of conveying, removing, or concealing the same, or any part thereof to be confiscated; and such Magistrate may order the whole, or any part, or parts of any fine imposed under this Act, to be paid, as soon as the same shall be realized, to the person upon whose information such conviction shall take place, or to the officer who shall have apprehended the offender, or seized any of the goods adjudged to be confiscated.

Power of convicting Magistrate as to confiscation, and remuneration of informer, &c.

10. A Magistrate may order any thing seized under the provisions of this Act, in respect of which any person shall be charged with an offence, to be detained until the person in whose possession the same shall have been seized shall be convicted, or acquitted of the offence charged. If the person shall be acquitted, the things so seized shall be restored; if he shall be convicted, such of the things only, if any, as shall not be adjudged by a Magistrate to be confiscated, shall be restored; the remainder shall be dealt with as confiscated.

Detention of thing seized as to which offence is charged.

11. No appeal shall lie from any order or conviction under the provisions of this Act.

Bar to appeal.

12. European British subjects shall be amenable to the jurisdiction of a Magistrate for any offence against the provisions of this Act.

European British subjects amenable.

13. Within the presidency of Bombay the superintendent of bázárs may punish any person for any offence against the provisions of this Act in the same manner and to the same extent as he is now authorized to do in any of the cases mentioned in clause 3, section 26, Regulation XXII of 1827, of the Bombay Code.

Powers of superintendent of bázárs, Bombay.

14. This Act shall not apply to the sale, or supply of any article for medicinal purposes, by recognized medical practitioners, chemists, or druggists.

Exemption of articles sold as medicines.

15. In the construction of this Act the word "Cantonment" shall include a "fortress, or garrison" or military bázár station; the word "Soldier" shall include any non-commissioned officer; the word "Magistrate" shall include a Joint Magistrate, or any person lawfully exercising the powers of a Magistrate, or a Justice of the Peace, the words "spirituous liquor" shall include toddy in a state of fermentation, or after it has been fermented. Words in the singular number shall include the plural, and words denoting the masculine gender shall include the feminine.

Interpretation-clause.

Commencement of Act in limits round cantonments.

16. This Act shall not take effect within any limits around a cantonment which shall be specified in any order of Government before the expiration of one month from the date of the notification of such order, and any order for extending the provisions of this Act to any limits around a cantonment may from time to time be varied, altered or suspended by Government.

ACT No. XX OF 1853 [a]

Passed on the 8th December 1853.

An Act to amend the Law relating to Pleaders in the Courts of the East India Company.

WHEREAS it is expedient to amend the law relating to Pleaders in the Courts of the East India Company, It is enacted as follows:—

1. [*Repealed by Act No. XIV of* 1870.]

Pleader not bound to attend Court except at hearing of cause in which he is employed.

2. No pleader shall be bound to attend in any of the Courts of the East India Company, on any day fixed for the transaction of civil business, or to notify to the Court his inability to attend unless he shall be employed in some cause or business which according to the practice of the Court, may be heard or transacted therein on that day, any thing in any law or regulation to the contrary notwithstanding.

Right of Supreme Court attornies to plead in all Sadr Courts.

3. Every attorney on the roll of any of Her Majesty's Supreme Courts of Judicature in India shall be entitled as such to plead in any of the Sadr Courts of the East India Company, subject however to all the rules for the time being in force in the said Sadr Courts respectively, applicable to barristers pleading therein, whether relating to the language in which the Court is to be addressed or to any other matter.

Barristers and attornies of Supreme Courts not required to produce certificate of character, &c.; but may plead in all subordinate Courts.

4. That part of section 4 Act No. I of 1846, which provides that no person shall be admitted a pleader in any of the Courts of the East India Company, unless he have obtained a certificate in such manner as shall be directed by the Sadr Courts that he is of good character and duty qualified for the office, shall not extend to barristers or attornies of any of the said Supreme Courts; but every such barrister and attorney shall be entitled as such to plead in any of the Courts of the East India Company subordinate to the Sadr Courts, subject to all the rules in force in the said subordinate Courts respectively applicable to pleaders therein, so far as such rules relate to the language in which the Court is to be addressed or to any other matter connected with pleading therein.

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[a] Repealed in the Lower Provinces, in the N. W. Provinces, and in the other territories to which Local Governments may extend Act No. XX of 1865.

ACT No. XVIII OF 1854.[a]

Received the Governor General's assent on the 12*th August* 1854.

An Act relating to Railways in India.

WHEREAS it is expedient that all Railways which have been, or shall be, opened by any Railway Company for the public conveyance of passengers or goods should be subject to the same regulations; It is enacted as follows:— **Preamble.**

1.[b] For the purposes of this Act, 'Railway' includes land within the fences or other boundary-marks prescribed under section twenty-one, and all lines of rail, sidings or branches, worked over by locomotive engines for the purposes of, or in connexion with, a Railway; also all stations, offices, warehouses, fixed machinery and other works constructed or being constructed for the purposes of, or in connexion with, a Railway. **'Railway.'**

No person shall enter any carriage used on any such Railway, for the purpose of travelling therein, without having first paid his fare and obtained a ticket. **Fares to be prepaid.**

Every person desirous of travelling on such Railway shall, upon payment of his fare, be furnished with a ticket, specifying the class of carriage and the distance for which the fare has been paid, and shall, when required, show his ticket to any servant of any[c] said Company duly authorized to examine the same, and shall deliver up such ticket upon demand, to any of the Company's servants duly authorized to collect tickets. **Passenger tickets to be given up on demand.**

Any person not producing or delivering up his ticket as aforesaid, shall be liable to pay the fare from the place whence the train originally started, unless he can prove that he has travelled a less distance only, in which case he shall be liable to pay the fare only from the place whence he has travelled. **Penalty.**

2. At the intermediate stations, the fares shall be deemed to be accepted, and the tickets furnished only upon condition that there be room in the train for which the tickets shall be furnished. **At intermediate stations, fares and tickets to be conditional.**

In case there shall not be room for all the passengers to whom tickets shall have been furnished, those who shall have obtained tickets for the longest distance shall have the preference; and those who shall have obtained tickets for the same distance shall have the preference according to the order in which they shall have received their tickets.

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[a] See Acts Nos. LII of 1860 and XIII of 1870.

[b] Act No. XXV of 1871, s. 2.

[c] *Sic.*

Proviso.

Provided that all officers and troops of Her Majesty, on duty, and all other persons on the business of the East India Company,[a] who by virtue of any contract with the East India Company, shall be entitled to be conveyed on such Railway in preference to, or in priority over the public, shall be entitled to such preference and priority without reference to the distance for which, or the order in which they shall have received their tickets.

Penalty for fraud.

3. Any person who shall defraud, or attempt to defraud any such Railway Company, by travelling, or attempting to travel, upon such Railway, without having previously paid his fare; or by riding in or upon a carriage of a higher class than that for which he shall have paid his fare; or by continuing his journey in or upon any of the carriages of the Company beyond the place for which he shall have paid his fare, without previously paying the fare for the additional distance, and with intent to avoid payment thereof;

or who shall knowingly and wilfully refuse or neglect, on arriving at the point to which he shall have paid his fare, to quit such carriage;

or who shall, in any other manner whatever, attempt to evade the payment of his fare,

shall be liable to a fine not exceeding fifty rupees for each offence.

Fine for entering carriage in motion,

4. Any passenger, who shall get into or upon, or attempt to get into or upon, or shall quit, or attempt to quit, any carriage upon any such Railway, while such carriage is in motion;

or riding on the steps.

or who shall ride or attempt to ride upon any such Railway, on the steps, or any other part of a carriage, except on those parts which are intended for the accommodation of passengers,

shall be liable to a fine not exceeding twenty rupees for each offence.

Fine for riding on engine, tender, or luggage-van.

5. Any person other than the engine-man, and fire-man, and assistant fire-man, if any, who, without the special license of the Superintendent of Locomotives, shall ride or attempt to ride upon any locomotive engine or tender upon any such Railway;

and any person other than the guard or breaksman, who, without such license as aforesaid, shall ride or attempt to ride upon such Railway, in or upon any luggage-van or goods-waggon, or other vehicle not appropriated to the carriage of passengers,

shall be liable to a fine not exceeding twenty rupees for each offence.

Smoking prohibited.

6. If any person shall smoke, either on the premises, or in or upon any of the carriages belonging to any such Railway Company, except in places or carriages which may be specially provided for the purpose, he shall be liable to a fine not exceeding twenty rupees for each offence;

[a] See 21 & 22 Vic., c. 106, s. 64.

and if any person persist in infringing this regulation after being warned to desist by any of the servants of the Company, such person, in addition to incurring the liability above-mentioned, may be removed by any of the servants of the Company from any such carriage, and from the premises of the Company, and shall forfeit his fare.

Penalty for intoxication or nuisance.

7. Any person who shall be in a state of intoxication, or shall commit any nuisance or act of indecency in any Railway carriage, or upon any part of the premises of any such Railway Company;

or who shall wilfully and without lawful excuse interfere with the comfort of any passenger on such Railway,

shall be liable to a fine not exceeding twenty rupees; and in addition to such liability, the offender may be removed by any of the servants of the Company from any such carriage, and also from the premises of the Company, and shall forfeit his fare.

Penalty for entering private room or carriage.

8. If any special carriage, or portion of a carriage, or any private room or apartment, shall be provided by any such Railway Company for the exclusive use of females, any male person, who without lawful excuse shall enter such carriage, or portion of a carriage, or any such room or apartment, knowing the same to be exclusively appropriated as aforesaid, or shall remain therein after having been informed of its exclusive appropriation, shall be liable to a fine not exceeding one hundred rupees,

and may be removed therefrom, and also from the premises of the Company, by any of the servants of the Company,

and shall forfeit his fare.

No liability for unbooked luggage.

9. No such Railway Company shall in any case be answerable for loss or injury to any passengers' luggage, unless it shall have been booked and separately paid for.

No liability for loss of gold, silver, &c., unless in case of special engagement.

10. No such Railway Company shall in any case be answerable for loss of or injury to any gold or silver, coined or uncoined, manufactured or unmanufactured, or any precious stones, jewellery, watches, clocks, or time-pieces of any description, trinkets, Government securities, bills of exchange, promissory notes, bank-notes, orders, or other securities for payment of money, Government stamp-paper, postage-stamps, maps, writings, title-deeds, paintings, engravings, pictures, plated articles, glass, china, silks in a manufactured or unmanufactured state,[a] and whether wrought up or not wrought up with other materials, shawls, lace, or any of them contained in any parcel or package which shall have been delivered to such Railway Company, either to be carried for hire or to accompany the person of any passenger, unless the value and

[a] 4 Bomb., O. C. J. 129.

nature of such articles shall have been declared by the person or persons sending or delivering the same, and an increased charge for the safe conveyance of the same shall have been accepted by some person specially authorized to enter into such engagements on behalf of the said Railway Company.

Public notice or private contract not to limit liability.

11. The liability of such Railway Company for loss or injury to any articles or goods to be carried by them other than those specially provided for by this Act shall not be deemed or construed to be limited or in any wise affected by any public notice given, or any private contract made by them;[a]

but such Railway Company shall be answerable for such loss or injury when it shall have been caused by gross negligence or misconduct on the part of their agents or servants.[b]

Remedy for non-payment of the carriage of goods.

12. If any person shall fail to pay on demand any sum due to any such Railway Company for the conveyance of any goods, it shall be lawful for the Company to detain all or any part of such goods, or, if the same shall have been removed from the premises of the Company, any other goods of such person which shall then be on their premises, or shall thereafter come into their possession;

and also to sell by public auction sufficient of such goods to realize the sum payable as aforesaid, and all charges and expenses of such detention and sale,

and out of the proceeds of the sale, to retain the sum so payable, together with the charges and expenses aforesaid, rendering the overplus, if any, of the money arising by such sale, and such of the goods as shall remain unsold, to the person entitled thereto;

or the Company may recover any such sum by action at law.

Written account of goods to be given on demand.

13. The owner or person having the care of any goods which shall have been carried upon any such Railway, or shall be brought on to the premises of any such Railway Company for the purpose of being carried on their Railway, shall, on demand by any servant of the Company appointed to receive goods to be carried on that part of the Railway on which such goods shall have been carried, or shall be about to be carried, deliver to such servant an exact account in writing signed by him of the number or quantity and description of such goods.

Penalty for false account.

14. If any such owner or person as aforesaid shall wilfully fail to give such account to such servant of the Company,

or if he shall wilfully give a false account thereof,

he shall for every such offence be liable to a fine not exceeding fifty rupees for every ton of goods, or for any parcel exceeding one hundredweight; and

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[a] See *E. I. Railway Co.* v. *Jordan*, 4 Beng., O. C. J. 28.

[b] *Assam Tea Co.* v. *E. I. Ry. Co.*, Bourke, O. C. J. 39.

to a fine not exceeding twenty rupees for any quantity of goods less than a ton or for any parcel less than one hundredweight.

Carriage of goods of a dangerous nature.

15. No person shall carry upon any such Railway any dangerous goods, or be entitled to require any such Railway Company to carry upon such Railway any luggage or goods which, in the judgment of the Company or any of their servants, shall be of a dangerous nature;

and if any person shall carry upon such Railway any dangerous goods, or shall deliver to such Railway Company any such goods for the purpose of being carried upon such Railway, without distinctly marking their nature on the outside of the package containing the same, or otherwise giving notice in writing of the nature thereof to the book-keeper or other servant of the Company to whom the same shall be delivered for the purpose of being so carried, he shall be liable to a fine not exceeding two hundred rupees for every such offence;

and it shall be lawful for any such Company or any of their servants to refuse to carry any luggage or parcel that they may suspect to contain goods of a dangerous nature, and to require the same to be opened to ascertain the fact previously to carrying the same;

and in case any such luggage or parcel shall be received by the Company for the purpose of being carried on the Railway, it shall be lawful for the Company or any of their servants to stop the transit thereof until they shall be satisfied as to the nature of the contents of the baggage or parcel.

Penalty for obstructing servant in his duty.

16. Any person who shall wilfully obstruct or impede any officer or servant of the Company in the discharge of his duty on such Railway, or any of the works, stations, or premises connected therewith shall be liable to a fine not exceeding fifty rupees.

Penalty for trespass.

17. Any person who shall trespass upon any such Railway, or upon any of the lands, stations, or other premises belonging to the Company, shall be liable to a fine not exceeding twenty rupees;

and if any such person shall refuse to leave such Railway or premises on being requested to do so by any officer or servant of the Company, or by any other person on behalf of the Company, he shall be liable to a fine not exceeding fifty rupees, and may be immediately removed from such Railway or premises by such officer, servant, or other person as aforesaid.

Construction of the words 'cattle' and 'public road.'

18. [a]The word 'cattle' shall have the meaning attached to it in the Cattle Trespass Act, 1871,[b] and the expression 'public road' in sections eleven and twenty-six of the said Act shall be deemed to include a Railway.

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a, c See Act No. XXV of 1871, s. 2.

b "'Cattle' includes also elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids"—Act No. I of 1871, s. 3.

Any person employed on a Railway may exercise the powers of seizure provided by the said section eleven.

Penalty for cattle-trespass within fences of a Railway.

19. [a]The owner or person in charge of any cattle trespassing or straying on any Railway provided with fences suitable for the exclusion of cattle shall, on conviction before a Magistrate, be liable to a fine not exceeding ten rupees for each animal, in addition to any amount that may be recovered under the Cattle Trespass Act.

Penalty for wilfully driving cattle upon a Railway.

20.[b] Whenever cattle are wilfully driven or knowingly permitted to be on any Railway provided with fences suitable for the exclusion of cattle, otherwise than for the purpose of crossing the Railway at a gate or bar provided for public use, the person in charge of such cattle, or, if he cannot be identified, then the owner of the said cattle, shall, on conviction before a Magistrate, be liable to a fine not exceeding fifty rupees for each animal, in addition to any amount that may be recovered under the said Act.

Fines imposed under this or the preceding section may be recovered in the manner provided by section twenty-five of the said Act.

Power to make rules as to fences, gates and bars.

21.[c] The Governor General in Council, or the Local Government with the sanction of the Governor General in Council, shall make rules, and may in like manner, from time to time, vary the same, for the provision of boundary-marks or fences for any Railway or any part thereof, and for roads constructed in connexion therewith, and of gates or bars at places where any Railway crosses a road on the level, and for the employment of persons to open and shut such gates or bars;

and may by such rules determine what kind of fences shall, for the purposes of sections nineteen and twenty, be deemed to be suitable for the exclusion of cattle.

Penalty for injury to carriage, &c.

22. Any person who shall unlawfully and wilfully remove or deface the number-plates, or remove or extinguish any lamp on any carriage belonging to any such Railway Company; or shall wilfully or negligently damage or injure any carriage, engine, wagon, truck, warehouse, building, machine, fence, or any other matter or thing belonging to such Railway Company, shall be liable to a fine not exceeding fifty rupees.

Penalty for opening or not properly shutting gates.

23. If any person for whose use or accommodation any gate shall have been set up by any such Railway Company on either side of such Railway, or any other person, shall open such gate, or pass or attempt to pass, or drive or attempt to drive any carriage, cattle, or other animal or thing across the said Railway at a time when any engine or train approaching along the same shall be in sight;

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a, b, c See Act No. XXV of 1871, s. 2.

or shall at any time omit to shut and fasten such gate, as soon as he and any carriage, cattle, or other animal or thing under his charge shall have passed through the same,

he shall be liable to a fine not exceeding fifty rupees.

Offender may be apprehended.

24. If any person shall commit any offence hereby made punishable by fine, and the name and address of such person shall be unknown, or there be reason to believe that the offender will abscond, any officer or servant of the Company, or any Police officer, or other person whom such officer or servant may call to his aid, may, without any warrant or written authority, lawfully apprehend and detain such offender until he can be taken before a Magistrate or other officer having jurisdiction over the offence, or shall give sufficient security for his appearance before such Magistrate or other officer, or shall be otherwise discharged by due course of law.

Penalty for wilful act or omission endangering passenger.

25. Whoever shall wilfully do any act, or shall wilfully omit to do what he is legally bound to do, intending by such act or omission to cause, or knowing that he is thereby likely to cause the safety of any person travelling or being upon any such Railway to be endangered, shall be liable to be transported beyond sea for the term of his life, or to be imprisoned, with or without hard labour, for any term not exceeding seven years.

Power of Railway Company or controlling officer to make rules.

26.[a] Every Railway Company, or, in the case of a Railway not managed by a Company, the officer for the time being entrusted with the control of such Railway, shall make general rules and regulations for the use, working and general administration of the Railway, and may in like manner, from time to time, vary the same.

Publication of rules.

All such general rules and regulations or variations thereof shall be submitted to the Governor General in Council for sanction, and, when sanctioned, shall be published in the *Gazette of India*, and shall be otherwise notified to the public and to the officers and persons employed upon such Railway in such a manner as the Governor General in Council, from time to time, directs.

Any such rule or regulation may contain a provision that any person committing a breach of it shall be liable to a fine not exceeding fifty rupees, or, in default of payment of such fine, to imprisonment of either description for a term which may extend to two months.

The Governor General in Council may at any time cancel any rule or regulation so sanctioned.

Any Justice of the Peace may try an European British subject for an offence under this section, and on conviction award a sentence within the limits thereby prescribed for such offence.

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[a] See Act No. XXV of 1871, s. 2.

Penalty for drunkenness or breach of duty by Railway officer.

27. Any officer or servant of such Railway Company, who shall be in a state of intoxication whilst actually employed upon the Railway, or any of the works connected therewith, in the discharge of any duty,

and any officer or servant of such Company who negligently shall omit to perform his duty, or shall perform the same in an improper manner,

shall be liable to a fine not exceeding fifty rupees;

and if the duty in any of the cases in this section above-mentioned be such that the omission or negligent performance thereof would be likely to endanger the safety of any person travelling or being upon such Railway, such officer or servant shall, on conviction before a Magistrate, be liable to imprisonment, with or without hard labour, for a term not exceeding one year, or to fine, or to both.

Penalty for an act not wilful.

28. If any person shall rashly or negligently, and without lawful excuse, do any act which shall be likely to endanger the safety of any person travelling or being upon such Railway, he shall, upon conviction before a Magistrate, be liable to imprisonment, with or without hard labour, for a term not exceeding one year, or to fine, or to both.

Penalty for endangering the safety of persons.

29.[a] If any officer or person employed upon a Railway endangers the safety of any person by

(1) disobeying any general rule or regulation sanctioned and notified in the manner prescribed by section twenty-six, or

(2) disobeying any rule or order not inconsistent with the general rules or regulations aforesaid, and which he was bound by the terms of his service to obey, and of which he had notice, or

(3) by any rash or negligent act or omission,

he shall be liable to imprisonment of either description for any term not exceeding three years, or to fine not exceeding five hundred rupees, or to both.

Jurisdiction of Magistrate, &c., to fine.

30. Any person, whether a European British subject or not, who shall be guilty of any offence, for which, according to the provisions of this Act, he shall be liable to a fine only, shall be punishable for such offence by any Justice of the Peace for any of the Presidency Towns of Calcutta, Madras and Bombay, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate, whether the offence shall have been committed within the local limits of the jurisdiction of such officer or not,

and any person hereby made punishable by a Justice of the Peace, shall be punishable upon summary conviction.

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[a] See Act No. XXV of 1871, s. 2.

31. No conviction, order or judgment of any Justice of the Peace shall be quashed for error of form or procedure, but only on the merits; Conviction to be quashed on merits only—form of conviction, &c.

and it shall not be necessary to state on the face of the conviction, order or judgment, the evidence on which it proceeds;

but the depositions taken, or a copy of them, shall be returned with the conviction, order or judgment, in obedience to any writ of *certiorari*,[a]

and if no jurisdiction appears on the face of the conviction, order or judgment, but the depositions taken supply that defect, the conviction, order or judgment, shall be aided by what so appears in such depositions.

32, 33. [*Repealed by Act No. XVI of* 1874.]

34. All fines imposed under the authority of this Act for offences punishable by fine only by any Justice of the Peace, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate, or by any Assistant to a Magistrate, or Deputy Magistrate, may, in case of non-payment thereof, by levied by distress and sale of the goods and chattels of the offender, by warrant under the hand of any of the above-named officers; Fines how to be recovered.

and in case any such fine shall not be forthwith paid, any such officer may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of such officer for his appearance at such place and time as shall be appointed for the return of the warrant of distress, and such officer may take such security by way of recognizance or otherwise;

and if upon the return of such warrant it shall appear that no sufficient distress can be had whereon to levy such fine, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such officer, by the confession of the offender or otherwise, that he has not sufficient goods and chattels whereupon such fine or sum of money could be levied if a warrant of distress were issued, any such officer may, by warrant under his hand, commit the offender to prison, there to be imprisoned only, or to be imprisoned and kept to hard labour, according to the discretion of such officer, for any term not exceeding two calendar months when the amount of the fine shall not exceed fifty rupees, and for any term not exceeding four calendar months when the amount shall not exceed one hundred rupees, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount.

35. The heads of district police and amíns of police in the Presidency of Madras, and district or joint police officers in the Presidency of Bom- Jurisdiction in the Madras

[a] See Act No. X of 1875, s. 147.

and Bombay Presidencies.

bay,[a] may punish, to the extent of the powers conferred upon them respectively in petty offences, any offence hereby made punishable by fine not exceeding twenty rupees.

Enforcing payment of fare by passenger not producing ticket.

36. Payment of any fare to which any passenger not producing or delivering up his ticket shall be liable under section 1 of this Act, may be enforced in the same manner as any fine imposed by this Act.

Apprehension of offenders.

37. Every person who shall be guilty of any offence mentioned in sections 25, 26, 27 and 28 of this Act, may be lawfully apprehended without any warrant or written authority, by any servant or officer of the Company, or by any other person whom such officer or servant shall call to his aid, or by any police officer of such grade as shall by any law in force for the time being be entrusted in any case with the power of arrest without a warrant;

and every person so apprehended shall, with all convenient despatch, be carried and conveyed before a Magistrate or Justice of the Peace, or other officer lawfully authorized to punish the offender or to commit him for trial.

Construction.

38. In the construction of this Act, unless where a contrary intention appears from the context, the word 'Magistrate' shall include a Joint Magistrate, and any person lawfully exercising the powers of a Magistrate;[b] words in the singular number shall include the plural; words in the plural shall include the singular; and words in the masculine gender shall include the feminine; and the word 'fine' shall include a sum of money due upon a forfeited recognizance.

39. [*Repealed by Act No. XIV of* 1870.]

All Indian Railways to be within the Act.

40. Every Railway within the said territories, used for the public conveyance of passengers or goods, shall, until the contrary be proved, be presumed to be a Railway within the meaning of this Act,

and every Company to whom any such Railway shall belong shall, until the contrary be proved, be presumed to be a Railway Company within the meaning of this Act

Penalty for omitting to report accident.

41. Every such Railway Company shall, within forty-eight hours after the occurrence upon the Railway belonging to such Company of any accident attended with serious personal injury, give notice thereof to the Local Government;

and if any such Company omit to give such notice, they shall forfeit the sum of fifty rupees for every day during which the omission to give the same shall continue.

Local Government may

42. The Local Government may order and direct any such Railway Company to make up and deliver to them a return of serious accidents occur-

[a] See 3 Bomb., Crown Cases, 54. [b] See 4 Mad, Rulings X.

ring in the course of the public traffic upon the Railway belonging to such Company, whether attended with personal injury or not, in such form and manner as the Government shall deem necessary and require for their information, with a view to the public safety ; require a return of accidents.

and if any such returns shall not be so delivered within fourteen days after the same shall have been required, every such Company shall forfeit the sum of fifty rupees for every day during which the said Company shall neglect to deliver the same. Penalty.

43. A copy of this Act, and of the General Regulations, Time-Tables, and Tariff of charges, which shall from time to time be published by any Railway Company with the sanction of the Local Government, shall be exhibited in some conspicuous place at each station of every Railway, so that they may be easily seen and read ; Copy and translation of Act to be shown at Railway stations.

and all such documents shall be so exhibited in English and in the vernacular language of the district in which the station is situate, and in such other language, if any, as shall be required by order of the Local Government.

44.[a] The Governor General in Council may from time to time, by notification in the *Gazette of India,* declare what Government shall be deemed to be the Local Government in respect of the whole or any part of a Railway for the purposes of the Act. Power to declare 'Local Government' in case of Railways.

ACT No. XXXI OF 1854.

Received the Governor General's assent on the 16th of December 1854.

An Act to simplify the modes of conveying land in cases to which the English Law is applicable.

WHEREAS it is expedient, in cases to which the English law applies, to simplify the modes of conveying land, and to exempt the purchasers of trust Preamble.

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[a] Act No. XXV of 1871, s. 3. By notification under this section, in the Public Works Department, dated 29th November 1871, No. 450, the Governor General in Council declared that each of the following authorities—

The Governor of Madras in Council,
The Governor of Bombay in Council,
The Lieutenant-Governor of Bengal,
The Lieutenant-Governor of the North-Western Provinces,
The Lieutenant-Governor of the Panjáb,
The Resident at Haidarábád,
The Chief Commissioner of the Central Provinces,
The Chief Commissioner of Oudh,
The Chief Commissioner of Mysore,
The Commissioner of Sindh, and
The Agent to the Governor General for Central India,

shall be deemed to be the Local Government for the purposes of giving powers to act as magistrates, and calling for returns of accidents under sections 33 and 41 of Act No. XVIII of 1854, as regards that portion of any railway which passes through the territories under the administration or control of such authority.

property from the liability to see to the application of the purchase money: It is enacted as follows :—

1. [*Repealed by Act No. XIV of* 1870.]

Tenant in tail may dispose of or enlarge his estate by &c.

2. Every tenant in tail or other owner of an estate of inheritance less than an estate in fee simple, either at law or in equity, in any lands or hereditaments, not being under any disability, shall have power to dispose of such lands and hereditaments against the issue in tail, and all persons whose estates are to take effect after the determination or in defeazance of his own, or to enlarge his said estate into an estate in fee simple, by any deed declaring an intention so to dispose of the said lands or hereditaments, or to enlarge his estate therein ; and every tenant in tail or other owner of an estate of inheritance less than an estate in fee simple, who shall be under the disability of coverture, shall have power to dispose of or enlarge her said estate in manner aforesaid, by any deed declaring her intention so to do, and acknowledged by her as hereinafter mentioned.

Provided that every disposition under this section shall be subject to the rights of all persons in respect of estates prior to the estate tail or other estate of inheritance which is the subject of such disposition, and the rights of all other persons, except those against whom such disposition is by this Act authorized to be made.

Married woman, with husband's concurrence, may dispose of her estate by deed acknowledged.

3. Every married woman who, either alone, or jointly with her husband, is possessed of, or entitled to any estate or interest in, or any power to be exercised over any lands or hereditaments, which, but for the passing of this Act, she might have disposed of or extinguished by levying a fine, or suffering a recovery, or by joining in either of such assurances, shall have power by deed, to be acknowledged by her as hereinafter mentioned, to dispose of, release, surrender, or extinguish any such estate, interest, or power, as fully and effectually as if she were an unmarried woman.[a]

Secs. 2 & 3 to apply to money subject to be invested in land.

4. The provisions of the last two preceding sections shall, so far as circumstances will admit, apply to money subject to be invested in lands or other hereditaments.

Execution of deeds by married women.

5. No deed to be executed by a married woman under the provisions hereinbefore contained shall, so far as regards the interest of such married woman, be valid or effectual unless her husband concur therein, nor unless the deed be acknowledged in manner hereinafter prescribed before a Judge of one of Her Majesty's Supreme Courts, or before a Judge or other covenanted officer of the East India Company exercising civil jurisdiction in the place wherein such deed shall be acknowledged, or before some Commissioner appointed

[a] See 3 & 4 Wm. IV, c. 74, s. 77.

either specially for the occasion, or appointed as a permanent Commissioner by one of Her Majesty's said Courts to take such acknowledgments.[a]

If husband be lunatic, &c., Court may direct acknowledgment by deed without his concurrence, saving right of the husband, &c.

6. If the husband of any married woman, desirous of enlarging, passing, or destroying any estate, interest, or power, by a deed to be acknowledged by her under this Act, shall be a lunatic, idiot, or of unsound mind, whether he shall have been found such by inquisition or not, or from any other cause shall be incapable of executing a deed, or if his residence shall not be known, or if he shall be in prison, or living apart from his wife either by mutual consent or by sentence of divorce, or in consequence of his being transported beyond the seas, or from any other cause whatever, it shall be lawful for any of Her Majesty's said Courts, by an order to be made in a summary way upon the application of such married woman, and upon such evidence as to the Court shall seem meet, to dispense with the concurrence of her husband in the deed so to be acknowledged; and any deed to be executed or acknowledged by her in pursuance of such order shall (but without prejudice to the rights of her husband as then existing, independently of this Act,) be as valid and effectual as if he had concurred therein.[b]

Supreme Courts may appoint commissioners to take such acknowledgments.

7. It shall be lawful for any of Her Majesty's said Courts to appoint, by its order, under the seal of the Court, to be published in the Government Gazette or otherwise as the Court shall direct, permanent commissioners, either by name or office, and to appoint from time to time, under special commissions, special commissioners, any one of whom shall be authorized and empowered, unless the act is directed to be done before more than one, to take the acknowledgment of any deed by any married woman, who, by reason of her place of residence, or ill-health, or other sufficient cause, shall be unable to make such acknowledgment before one of the Judges or other officers described in the preceding section.

Examination of married woman apart from her husband.

8. Every such Judge, officer, or commissioner as aforesaid, before he shall receive the acknowledgment by any married woman of any deed to be acknowledged by her under this Act, shall examine her apart from her husband touching her knowledge of such deed, and shall ascertain whether she understands its object, and freely and voluntarily consents to the same, and unless she appears to understand its object, and freely and voluntarily to consent to such deed, he shall not permit her to acknowledge the same, and in such case, such deed, so far as relates to the execution thereof by such married woman, shall be void.[c]

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[a] See 3 & 4 Wm. IV, c. 74, s. 79.
[b] See 3 & 4 Wm. IV, c. 74, s. 91.
[c] See 3 & 4 Wm IV, c. 74, s. 80.

Judge, &c., to sign memorandum of acknowledgment.

9. Every Judge, officer, or commissioner taking such acknowledgment under this Act, shall, at the time of taking the same, sign a memorandum to be endorsed on or written at the foot, or in the margin of such deed, which memorandum shall be to the following effect, namely, "this deed, marked ( ), was this day produced before me and acknowledged by therein named, to be her act and deed, previous to which acknowledgment the said was examined by me separately and apart from her husband, touching her knowledge of the contents of the said deed, and her consent thereto, and appeared to understand the same, and declared the same to be freely and voluntarily executed by her."[a]

Deed of married woman when to take effect.

10. Every deed executed by a married woman and hereby required to be acknowledged, shall, so far as regards the interest of such married woman, take effect only from the time of the acknowledgment thereof.

Deed when presumed to have been duly acknowledged.

11. It shall not be necessary for any person producing a deed so acknowledged in any Court of Justice, to prove the hand-writing or authority of the Judge or other officer, or the commissioner taking such acknowledgment, but if such memorandum purports to have been in substance regularly made and signed, the deed shall be presumed to have been duly acknowledged by the party until the contrary is shown.

Saving of married women's powers of alienation.

12. Nothing in this Act contained shall abridge, extend, or affect the powers of alienation or disposition which any married woman might have exercised over any property or rights, otherwise than by levying a fine or suffering a recovery, or by joining in one of such assurances before the passing of this Act.

Contingent estates without trustees to preserve, to be protected.

13. In any deed or will executed after this Act comes into operation, and disposing of immoveable property situate in the territories in the possession and under the Government of India, wherein contingent estates are limited without the appointment of any trustees to preserve such contingent estates, the same shall be, to all intents and purposes, as effectually protected by the law as if such trustees had been duly appointed.

Estate may be conveyed, &c., by simple deed.

14. Any estate or interest in immoveable property, situate within the said territories, whether in possession, remainder, or reversion, may, in addition to any other mode of conveyance or release which is now valid, be conveyed, passed, or released by a simple deed, whether such deed operate under the Statute of Uses or not.[b]

No conveyance to operate tortiously.

15. No conveyance of any kind shall operate to destroy, impair, or affect any estate or interest which the conveying party has no right to destroy,

[a] See 3 & 4 Wm. IV, c. 74, s. 64.
[b] See 8 & 9 Vic., c. 106, s. 2.

impair, or affect, or beyond the extent to which he may impair or affect the same.[a]

16. It shall not be necessary in any deed relating to immoveable property situate within the said territories, to be executed after the passing of this Act, to add words of limitation to heirs, when the intention is to give the absolute interest to a person and his heirs general; but a gift, grant, or other conveyance of immoveable property to, or in favour of any person, shall be taken to give him the entire and absolute interest in the nature of an estate in fee simple, unless such construction is rendered inadmissible by the other contents of the deed; and when in any deed or will executed after the passing of this Act any property is given to a person for life or for other freehold interest, and afterwards in the same deed, or will, is limited to his heirs or heir special, the estates shall not unite, but the limitation to the heirs shall be a limitation of an estate to be taken by the heirs by purchase.

Words of limitation no necessary in a deed, to give estate by inheritance.

Estate limited to heirs shall not unite with prior life estate.

17. When any property is sold, the proceeds of which are subject to any trust, the *bonâ fide* purchaser of the property shall not in any case be bound to see to the application of the purchase-money to the purposes of the trust.

Bonâ fide purchaser not required to see to application of trust-money.

18. Nothing in this Act contained shall extend to any case to which the English law is not applicable.

Act to apply only to cases governed by English law.

ACT No. VI OF 1855.

Received the Governor General's assent on the 17th of February 1855.

An Act to extend the operation of, and regulate the mode of executing Writs of Execution in Her Majesty's Supreme Courts of Judicature.[b]

WHEREAS it is desirable to extend the operation of, and regulate the conduct of writs of execution out of Her Majesty's Supreme Courts in certain cases; It is enacted as follows:—

Preamble.

1. *Clause* 1. Under any writ of *fieri facias* issued out of any of Her Majesty's Supreme Courts, on any side of the Court, may be seized and sold any lands, houses, or other immoveable property of the party against whose effects such writ issues, whether his estate or interest therein be legal or equitable.

Sheriff empowered under *fieri facias* to seize and sell land.

Clause 2. The Sheriff under any such writ may put the purchaser in possession of such of the lands, houses, or other immoveable property sold under such writ, of which the judgment debtor is in the actual possession, and of which an actual delivery can be made.

When Sheriff may put purchaser in possession.

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[a] See 8 & 9 Vic., c. 106, s. 4.

[b] See *Vináyak Vasudev* v. *Ritchie*, 3 Bomb., O. C. J. 139, 146, 148.

When Sheriff is not to seize but to sell debtor's interest. Effect of conveyance.

Clause 3. If the lands, houses, or other immoveable property liable to be sold under such writ be in the possession of any person other than the judgment debtor, the Sheriff shall not seize such property, but shall sell and convey all the right, title and interest of the debtor; and such conveyance shall pass the same interest to the purchaser as if the same had been executed by the debtor.

Sale when to be notified to Judge of district.

Proclamation of same.

Clause 4. In such last mentioned case if the property shall be situate beyond the local limits of the jurisdiction of such Court, the Sheriff shall notify such sale to the Judge of the district, who shall cause notice of the same to be officially proclaimed, in like manner as if the sale had been effected under a decree of his own Court.

Notice of sale when to be published in the office of collector, &c.

Clause 5. In any case of intended sale of immoveable property beyond the local limits of the jurisdiction of such Supreme Court, the Sheriff shall cause a notice, specifying the time and place of the intended sale, to be stuck up in some conspicuous place in the office of the collector of the district within which such property is situate and also at the mál kachchari of the estate, if any, otherwise on some conspicuous part of the property to be sold.

Length of time for publication of notice.

The number of days between the publication of such notice and the sale shall not be less than fourteen days, if the property be not distant more than 100 miles from the Supreme Court; if the distance shall exceed 100 miles, the number of days shall be increased by an additional day for every 50 miles of such excess of distance.

Proviso.

Provided that the want of such notice, or any irregularity in respect thereof, shall not vitiate the sale in the hands of a *boná fide* purchaser.

In what case judgment debt may be raised by mortgage instead of sale.

2. If any lands, houses, or other immoveable property be seized or liable to be sold under any such writ, it shall be lawful for the Court, on application to it on behalf of the execution debtor or of any one of several execution debtors, if the Court shall be satisfied that there is reasonable ground to believe that the amount of the judgment may be raised by mortgage of the estate, to postpone the sale for a term not exceeding one month to enable the the defendant to raise the amount, and to direct that the money ordered to be levied by such execution shall be raised by mortgage instead of sale of such lands, houses, or other immoveable property, upon such terms as to the payment of interest upon the judgment or otherwise as the Court may think fit, and in such case to give all necessary directions for the execution of such mortgage.

Sheriff empowered under *fieri facias* to seize money, bank-notes, &c. And to pay money or

3. Under any such writ of *fieri facias* may also be seized money, bank-notes, cheques, bills of exchange, promissory notes, hundís, Government securities, bonds, or other securities for money, and also debts belonging to the said person; and the Sheriff or other officer having the execution of the writ shall be at liberty to pay or deliver over to the party suing out such execution,

any money or bank-notes which shall so be seized, or a sufficient part thereof, and shall with the order of the Court, endorse over or transfer, and without such order, shall hold any such cheques, bills of exchange, promissory notes, hundís, bonds, or other securities for money as a security or securities for the amount by such writ of *fieri facias* directed to be levied, or so much thereof as shall not have been otherwise levied and raised, and may, where he retains the same, sue in his own name as such Sheriff or officer for the recovery of the sum or sums secured thereby, or for any debt seized as aforesaid when the time of payment thereof shall have arrived; and the payment to such Sheriff or other officer, or to the party entitled under such endorsement or transfer, by the party liable, with or without suit, or the recovery and levying execution against the party so liable, shall discharge him to the extent of such payment or of such recovery and levy in execution, as the case may be, from his liability on any such cheque, bill of exchange, promissory note, hundí, bond, security, and debt; and such Sheriff or other officer shall pay over to the party suing out such writ, the money so to be recovered, or such part thereof as may be sufficient to discharge the amount by such writ directed to be levied; and if, after satisfaction of the amount so to be levied together with Sheriff's poundage and all lawful charges and expenses, any surplus shall remain in the hands of such Sheriff or other officer, the same shall be paid to the party against whom such writ shall be so issued, unless the same is duly attached in the hands of such Sheriff or other officer. Provided that no Sheriff or other officer shall be bound to sue any party liable upon any such cheque, bill of exchange, promissory note, hundí, bond, security, or debt, unless the party suing out such execution shall give security to the Sheriff for indemnifying him from all costs and expenses to be incurred in the prosecution of such action, or to which he may become liable in consequence thereof; the nature and amount of such security to be determined, in case they cannot agree, by the proper officer of the Court in which such action shall be brought, or, if the Court shall so order, by some other person to be appointed by the Court for such purpose; and the expense of preparing and executing such security shall be deducted out of any money to be recovered in such action, and the net proceeds only in this and other cases provided for by this Act shall be considered as received in satisfaction of the debt due to the execution creditor.

bank-notes to execution creditor. And with the order of the Court to endorse over, and without such order to hold cheques, bills of exchange, &c. And to sue in his own name for amount secured by bills of exchange, &c. Or for debts.

Proviso as to indemnity for Sheriff.

4. If the Sheriff or other officer under any writ of *fieri facias* shall seize any Government security standing in the name of, or belonging to the party against whose property such writ shall be issued, he shall have power to receive the interest due on such Government security whether specially endorsed or otherwise, and to sign a receipt for the same; and also to sell and dispose

Sheriff may receive interest on Government security seized by him. And sell, and where

endorsement necessary, endorse such security.

of such Government security through a broker at the market rate of the day; and if the endorsement of such party shall be required to transfer such Government security, the Sheriff or other public officer shall endorse the same thus, "A. B. by C. D., Sheriff;" and such endorsement shall be as effectual to pass the said Government security and to give a good title to the holder thereof as if the same had been endorsed by the party himself or his duly constituted attorney.

No debt to be sold by Sheriff.

5. No debt shall be sold by the Sheriff under the process of the said Court, any Charter of any of the said Supreme Courts to the contrary notwithstanding; but the same shall be realized in the mode hereinbefore directed.

Shares in public Company may be charged.

6. If any person against whom any writ of execution shall have issued, shall have any interest in any stock or shares in any public Company, whether incorporated or not, carrying on business in India and within the reach of the process of the Court out of which such writ of execution has issued, it shall be lawful for the said Court or for any Judge thereof, on the application of the party who has sued out such writ of execution, to make an order *ex parte* that such interest in such stock or shares, or such of them or such part thereof respectively as the said Court or Judge shall think fit, shall stand charged with the payment of the amount due in respect of such writ of execution; and such order shall have the like effect and entitle the person in whose favour the same is made to the same remedies and priorities as a charge executed in favour of such person by the person against whom execution shall have been issued; and service or notice of such order upon or to the public Company whose stock or shares are the subject of such order, or upon or to any person claiming an interest in such stock or shares, shall have the like effect and shall entitle the person in whose favour such order is made to the same remedies against such public Company or such last mentioned person as notice of a charge executed of even date with such order by the person against whom execution shall have been issued in favour of the person at whose suit the same shall have been issued. Provided that nothing herein contained shall prevent the person against whom such order shall have been made or any other person affected thereby, from applying to the Court or Judge by whom such order has been made for its discharge on such grounds as may be just.

Proviso.

Property standing in name of officer of Court.

7. If such debtor shall have any interest in any property which shall be standing in the name of the Accountant-General of the Court or of any other officer of the Court, or in the dividends, interest, or annual produce thereof, it shall be lawful for the Court or a Judge to make an order that the interest of the defendant in such property shall be applied in payment of such debt, and

the Court or Judge shall have power to make such order as may be necessary to give full effect to the above provision.

Party arrested under *ca. sa.* entitled to discharge on payment or tender of amount of levy.

8. A plaintiff or defendant arrested under any writ of *capias ad satisfaciendum* issued upon any judgment, order, decree, or sentence of any of the said Courts whereby money is ordered to be paid to any party, shall be entitled to his discharge from such arrest on payment or tender to such party or his attorney in the cause, or to the Sheriff or gaoler in whose custody such person may be under such writ, of the amount directed to be levied by such writ.

When written order of attorney issuing *ca. sa.* sufficient for discharge of party by Sheriff or gaoler.

9. A written order under the hand of the attorney in the cause by whom any writ of *capias ad satisfaciendum* shall have been issued, shall justify the Sheriff, gaoler, or person in whose custody the party may be under such writ in discharging such party, unless the party for whom such attorney professes to act shall have given written notice to the contrary to such Sheriff, gaoler, or person in whose custody the opposite party may be; but such discharge shall not be a satisfaction of the debt, unless made by the authority of the creditor; and nothing herein contained shall justify any attorney in giving such order for discharge without the consent of his client.

Sheriff's liability for escape, &c.

10. A Sheriff shall not be liable in an action for escape or other breach of duty, to pay damages beyond the amount of the loss which his breach of duty has really occasioned.[a]

Writ of execution, if unexecuted, not to remain in force more than one year unless renewed.

But may be renewed from time to time.

11. A writ of execution sued out after the commencement of this Act, if unexecuted, shall not remain in force for more than one year from the date of such writ, unless renewed in the manner hereinafter provided; but a writ of execution, whether sued out before or after the passing of this Act, may, at any time before its expiration, be renewed by the party issuing it for one year from the date of such renewal, and so on from time to time during the continuance of the renewed writ by being marked with the seal of the Court and with a memorandum, signed by the officer, of the date of the day, month, and year of such renewal, or by such party giving a written notice of renewal to the Sheriff signed by the party or his attorney and bearing the like seal of the Court and memorandum signed by the officer as aforesaid; and a writ of execution so renewed shall have effect and be entitled to the same priority as the original writ would have had. Provided, however, that no writ of *habere facias possessionem* shall be renewed without the special leave of the Court or a Judge.

Effect of renewed writ. Proviso as to writ of *Habere.*

Production of writ or of notice of renewal,

12. The production of a writ of execution or of the notice renewing the same, purporting to be marked with such seal and signed as aforesaid, show-

[a] See 4 Bomb. O. C. J. 148.

evidence of renewal.

ing the same to have been renewed according to this Act, shall be sufficient evidence of its having been so renewed.

Seizure under writ of sequestration.

13. All property of every kind that may be seized under a writ of *fieri facias* issued from the said Supreme Courts respectively, may be seized also under a writ of sequestration duly issued from the same, and the seizure must in all cases be made in the mode directed by this Act as to seizures under writs of *fieri facias*, and any sum ordered by the Court to be realized by a sequestration, shall be realized in the same mode, and not otherwise, as if directed to be levied under a writ of *fieri facias*.

Levy of sum ordered to be realized.

Interpretation-clause.

14. The words "person" and "party" as used in this Act shall be understood to include any body corporate, and though used so as to import the singular number or the masculine gender only, shall be understood to include several persons as well as one person, and females as well as males, unless there be something in the context repugnant to such construction; and the term "Her Majesty's Supreme Courts," shall be understood to include the Court of Judicature of Prince of Wales' Island, Singapore, and Malacca.

ACT No. XI of 1855.

Received the Governor General's assent on the 27th March 1855.

An Act relating to mesne profits and to improvements made by holders under defective titles in cases to which the English Law is applicable.

Preamble.

WHEREAS it is expedient, in cases to which the English law is applicable, to limit the liability for mesne profits, and to secure to *bonâ fide* holders under defective titles the value of improvements made by them; It is enacted as follows:—

No person chargeable with rent *bonâ fide* paid to holder under defective title.

1. No person shall be chargeable with any rents or profits of any immoveable property which he has *bonâ fide* paid over to any person of whom he *bonâ fide* held the same, notwithstanding it may afterwards appear that the person to whom such payment was made had no right to receive such rents or profits.

Value of improvements made by *bonâ fide* holders under defective titles secured to them.

2. If any person shall erect any building or make an improvement upon any lands held by him *bonâ fide* in the belief that he had an estate in fee simple, or other absolute estate, and such person, his heirs or assigns, or his or their under-tenants, be evicted from such lands by any person having a better title, the person who erected the building or made the improvement, his heirs or assigns, shall be entitled either to have the value of the building or improve-

ment so erected or made during such holding and in such belief, estimated and paid or secured to him or them, or, at the option of the person causing the eviction, to purchase the interest of such person in the lands at the value thereof, irrespective of the value of such building or improvement.

Provided that the amount to be paid or secured in respect of such building or improvement shall be the estimated value of the same at the time of such eviction. Amount how fixed.

3. Nothing in this Act contained shall extend to any case to which the English law is not applicable. Act to apply only to cases governed by English law.

ACT No. XII OF 1855.

Received the Governor General's assent on the 27th March 1855.

An Act to enable Executors, Administrators or Representatives to sue and be sued for certain wrongs.[a]

WHEREAS it is expedient to enable executors, administrators or representatives in certain cases to sue and be sued in respect of certain wrongs which, according to the present law, do not survive to or against such executors, administrators or representatives; It is enacted as follows :— Preamble.

1. An action may be maintained by the executors, administrators or representatives of any person deceased, for any wrong committed in the life-time of such person, which has occasioned pecuniary loss to his estate, for which wrong an action might have been maintained by such person, so as such wrong shall have been committed within one year before his death[b]; and the damages, when recovered, shall be part of the personal estate of such person: Executors may sue and be sued in certain cases for wrongs committed in life-time of deceased.

and further, an action may be maintained against the executors or administrators or heirs or representatives of any person deceased for any wrong committed by him in his life-time for which he would have been subject to an action, so as such wrong shall have been committed within one year before such person's death[c]: and the damages to be recovered in such action shall, if recovered against an executor or administrator bound to administer according to the English law, be payable in like order of administration as the simple contract debts of such person.

2. No action commenced under the provisions of this Act shall abate by reason of the death of either party, but the same may be continued by or against the executors, administrators or representatives of the party deceased. Death of either party not to abate suit.

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[a] See 3 & 4 Wm. IV, c. 42, s. 2.
[b] See the Indian Limitation Act (IX of 1871), Sched. II, No. 12.
[c] See Act IX of 1871, Sched. II, No. 39.

Proviso.

Provided that, in any case in which any such action shall be continued against the executors, administrators or representatives of a deceased party, such executors, administrators or representatives may set up a want of assets as a defence to the action, either wholly or in part, in the same manner as if the action had been originally commenced against them.

ACT No. XIII OF 1855.

Received the Governor General's assent on the 27th March 1855.

An Act to provide compensation to families for loss occasioned by the death of a person caused by actionable wrong.[a]

Preamble.

WHEREAS no action or suit is now maintainable in any Court against a person who, by his wrongful act, neglect, or default, may have caused the death of another person, and it is often-times right and expedient that the wrong-doer in such case should be answerable in damages for the injury so caused by him; It is enacted as follows:—

Suit for compensation to the family of a person for loss occasioned to it by his death by actionable wrong.

1. Whenever the death of a person shall be caused by wrongful act, neglect or default, and the act, neglect or default is such as would (if death had not ensued) have entitled the party injured to maintain an action and recover damages in respect thereof, the party who would have been liable if death had not ensued, shall be liable to an action or suit for damages, notwithstanding the death of the person injured, and although the death shall have been caused under such circumstances as amount in law to felony or other crime.

And it is enacted further, that every such action or suit shall be for the benefit of the wife, husband, parent and child, if any, of the person whose death shall have been so caused, and shall be brought by and in the name of the executor, administrator or representative of the person deceased;

and in every such action, the Court may give such damages[b] as it may think proportioned to the loss resulting from such death to the parties respectively, for whom and for whose benefit such action shall be brought, and the amount so recovered, after deducting all costs and expenses, including the costs not recovered from the defendant, shall be divided amongst the before-mentioned parties or any of them, in such shares as the Court by its judgment or decree shall direct.

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[a] Copied from 9 & 10 Vic., c. 93 (Lord Campbell's Act).

[b] As to the measure of damages under this Act, see *Vinâyak Raghunâth* v. *G. I. P. Ry. Co.*, 7 Bomb., O. C. J. 113: *Ratanbâi* v. *G. I. P. Ry.*, ib. 120: S. C. on appeal, 8 ib. 130.

2. Provided always that not more than one action or suit shall be brought for, and in respect of the same subject-matter of complaint;[a] provided that, in any such action or suit, the executor, administrator or representative of the deceased may insert a claim for, and recover any pecuniary loss to the estate of the deceased occasioned by such wrongful act, neglect or default, which sum, when recovered, shall be deemed part of the assets of the estate of the deceased. Not more than one suit to be brought. Claim for loss to estate may be added.

3. The plaint in any such action or suit shall give a full particular of the person or persons for whom, or on whose behalf, such action or suit shall be brought, and of the nature of the claim in respect of which damages shall be sought to be recovered. Plaintiff shall deliver particulars, &c.

4. The following words and expressions are intended to have the meanings hereby assigned to them respectively, so far as such meanings are not excluded by the context or by the nature of the subject-matter, that is to say, words denoting the singular number are to be understood to apply also to a plurality of persons or things, and words denoting the masculine gender are to be understood to apply also to persons of the feminine gender; and the word "person" shall apply to bodies politic and corporate; and the word "parent" shall include father and mother[b] and grand-father and grand-mother; and the word "child" shall include son[c] and daughter and grand-son and grand-daughter and step-son and step-daughter. Interpretation-clause.

ACT No. XXIII of 1855.[d]

Received the Governor General's assent on the 13*th August* 1855.

An Act to amend the Law relating to the administration of the Estates of deceased persons charged with money by way of Mortgage.[e]

Whereas it is expedient that the law, under which the real and personal assets of deceased persons subject to the English law are administered, should be amended; It is enacted as follows:— Preamble.

1. If any person shall die seised of, or entitled to any estate or interest in any land or other hereditaments within the territories in the possession of, Heir or devisee of land not to

[a] See the Indian Limitation Act (IX of 1871), schedule II, No. 13.

[b] Stepfather and stepmother are designedly omitted.

[c] As to adopted sons, see 7 Bomb., O. C. J., 113.

[d] Repealed, except as to descents or devises occurring or made before 1st January 1866, by Act No. VIII of 1868. Applied, as regards such descents and devises, to the whole of British India, except the Scheduled Districts, Act XV of 1874. As to devises made on or after 1st January 1866, see the Indian Succession Act (X of 1865), section 154.

[e] Copied from 17 & 18 Vic., c. 113.

claim payment of mortgage out of personalty.

and under the government of the East India Company, which shall, at the time of his death, be charged with the payment of any sum or sums of money by way of mortgage, and such person shall not by his will or deed or other document have signified any contrary or other intention, the heir or devisee to whom such land or hereditaments shall descend or be devised, shall not be entitled to have the mortgage-debt discharged or satisfied out of the personal estate or any other real estate of such person, but the land or hereditaments so charged shall, as between the different persons claiming through or under the deceased person, be primarily liable to the payment of all mortgage-debts with which the same shall be charged, every part thereof, according to its value, bearing a proportionate part of the mortgage-debts charged on the whole thereof:

Proviso as to right of mortgagee to satisfaction from personal assets.

Provided always, that nothing herein contained shall affect or diminish any right of the mortgagee of such lands or hereditaments to obtain full payment or satisfaction of his mortgage-debt, either out of the personal estate of the person so dying as aforesaid or otherwise:

Proviso as to claims made prior to this Act.

Provided also that nothing herein contained shall affect the rights of any person claiming under, or by virtue of any will, deed, or document already made, or to be made, before this Act shall have come into operation.

ACT No. XXIV of 1855.

Received assent on the 13*th August* 1855.

An Act to substitute penal servitude for the punishment of Transportation in respect of European and American Convicts, and to amend the Law relating to the removal of such Convicts.

Preamble.

WHEREAS, by reason of the difficulty of providing a place to which Europeans or Americans can, with safety to their health, be sent for the purpose of undergoing sentences of transportation or of imprisonment for long terms, it has become expedient to substitute other punishment for that of transportation, and to amend the law relating to the removal of European and American Convicts for the purpose of imprisonment; It is enacted as follows:—

No European or American to be sentenced to transportation.

1. No European or American shall be liable to be sentenced or ordered, by any Court within the territories in the possession and under the Government of India, to be transported.

Terms of penal servitude instead of the present

2. Any person who, but for the passing of this Act, would, by any law now in force, or which may hereafter be in force, in any part of the said territories, be liable to be sentenced or ordered, by any such Court, to be trans-

ported, shall, if a European or American, be liable to be sentenced or ordered to be kept in penal servitude for such term as hereinafter mentioned. terms of transportation.

The terms of penal servitude to be awarded by any sentence or order, instead of the term of transportation to which any such offender would, but for the passing of this Act, be liable, shall be as follows: (that is to say)—

Instead of transportation for seven years, or for a term not exceeding seven years, penal servitude for the term of four years.

Instead of any term of transportation exceeding seven years, and not exceeding ten years, penal servitude for any term not less than four and not exceeding six years.

Instead of any term of transportation exceeding ten years and not exceeding fifteen years, penal servitude for any term not less than six and not exceeding eight years.

Instead of any term of transportation exceeding fifteen years, penal servitude for any term not less than six and not exceeding ten years.

Instead of transportation for the term of life, penal servitude for the term of life.

And in every case where, at the discretion of the Court, one of any two or more of the terms of transportation hereinbefore mentioned might have been awarded, the Court shall have the like discretion to award one of the two or more terms of penal servitude hereinbefore mentioned, in relation to such terms of transportation.

3. Provided always that nothing herein contained shall interfere with or affect the authority or discretion of any Court in respect of any punishment which such Court may now award or pass on any offender other than transportation; but where such other punishment may be awarded at the discretion of the Court instead of transportation or in addition thereto, the same may be awarded instead of, or (as the case may be) in addition to, the punishment substituted for transportation by this Act. Discretion of Courts as to alternative punishments.

4. If any offender sentenced by any Court within the said territories to the punishment of death shall have mercy extended to him, upon condition of his being kept in penal servitude for life, or for any term of years, all the provisions of this Act shall be applicable to such offender in the same manner as if he had been lawfully sentenced under this Act to the term of penal servitude specified in the condition. Effect of pardon granted upon condition of penal servitude.

5, 6, 7. [*Repealed by Act No. V of* 1871.]

8. [*Repealed by Act No. XII of* 1867.]

9, 10, 11, 12. [*Repealed by Act No. V of* 1871.]

Act not to affect the provisions of certain English Statutes.

13. Nothing in this Act is intended to alter or affect the provisions of the 12 & 13 Victoria, Chapter 43,[a] or any Act of Parliament passed in the United Kingdom of Great Britain and Ireland since the 28th of August 1833, or which may hereafter be passed.

Sentence when proof that a person is a European or an American.

14. Any sentence or order upon any person describing him as a European or American shall be deemed, for the purposes of this Act, to be conclusive of the fact that such person is a European or American within the meaning of this Act.

Interpretation-clause.

15. The word "European," as used in this Act, shall be understood to include any person usually designated a European British subject. Words in the singular number or the masculine gender shall be understood to include several persons as well as one person, and females as well as males, unless there be something in the context repugnant to such construction.

ACT No. XXVIII OF 1855.

Received the Governor General's assent on the 19*th September* 1855.

An Act for the repeal of the Usury Laws.[b]

Preamble.

WHEREAS it is expedient to repeal the laws now in force relating to Usury;[c] It is enacted as follows:—

1. [*Repealed by Act No. XIV of* 1870.]

Rate of interest to be decreed by Courts.

2. In any suit in which interest is recoverable, the amount shall be adjudged or decreed by the Court at the rate (if any) agreed upon by the parties;[d] and if no rate shall have been agreed upon, at such rate as the Court shall deem reasonable.

Rate of interest upon a judgment or decree.

3. Whenever a Court shall direct that a judgment or decree shall bear interest, or shall award interest upon a judgment or decree, it may order the interest to be calculated at the rate allowed in the judgment or decree upon the principal sum adjudged, or at such other rate as the Court shall think fit.

Contract for usufruct of property, in lieu of interest.

4. A mortgage or other contract for the loan of money by which it is agreed that the use or usufruct of any property shall be allowed in lieu of interest, shall be binding upon the parties.

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[a] 'An Act for punishing mutiny and desertion of officers and soldiers in the service of the East India Company, and for regulating in such service the payment of regimental debts and the distribution of effects of officers and soldiers dying in the service.' Repealed by 20 & 21 Vic., c. 66.

[b] See 2 Mad. 453 : 10 Bomb. 382.

[c] This Act does not affect the Hindú or Muhammadan law as to interest, see 3 Beng., O. C. J., 130, (*contra* 5 Beng. 500) : 3 Bomb. A. C. J. 23 : 7 Bomb. O. C. J. 19 : 10 Bomb. 385.

[d] See 4 Bomb., A. C. J., 202.

5. Whenever, under the Regulations of the Bengal Code,[a] a deposit may be made of the principal sum and interest due upon any mortgage or conditional sale of land hereafter to be entered into, the amount of interest to be deposited shall be at the rate stipulated in the contract, or, if no rate has been stipulated and interest be payable under the terms of the contract, at the rate of twelve per centum per annum. Provided that, in the latter case, the amount deposited shall be subject to the decision of the Court as to the rate at which interest shall be calculated.

Amount of interest to be deposited in certain cases of conditional sales under Bengal Regulations.

Proviso.

6. In any case in which an adjustment of accounts may become necessary between the lender and the borrower of money upon any mortgage, conditional sale of landed property, or other contract whatsoever, which may be entered into after the passing of this Act, interest shall be calculated at the rate stipulated therein; or, if no rate of interest shall have been stipulated and interest be payable under the terms of the contract, at such rate as the Court shall deem reasonable.

Rate of interest on future adjustments of accounts.

ACT No. XXXIV OF 1855.[b]

Received the Governor General's assent on the 14*th December* 1855.

An Act to explain and amend Act No. XXXIII of 1852.

WHEREAS doubts have arisen whether a Court to which application is made to enforce or execute a judgment under the provisions of Act No. XXXIII of 1852 has power to inquire into the validity of the judgment; and it is expedient to remove such doubts, and to prevent any such Court from inquiring into the validity of a judgment in respect of which it has no appellate jurisdiction, and to provide for a stay of execution when such Court thinks it reasonable that the validity of the judgment should be inquired into: It is enacted as follows:—

Preamble.

1. The Court to which application is made to enforce or execute a judgment under the provisions of Act No. XXXIII of 1852, shall not have power to inquire into the validity of such judgment, unless it appear, upon the face of such judgment, that the Court by which the judgment was given had no jurisdiction to pronounce the same.

Court asked to enforce another Court's judgment not to inquire into its validity.

2. The Court to which the application is made may, upon reasonable cause being shown, stay the execution of the judgment for a reasonable time,

When Court applied to may stay execution.

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[a] See Beng. Reg. I of 1798, s. 2.

[b] Repealed (except as to Charter Courts), where Act No. VIII of 1859 operates, by Act No. X of 1861.

to enable the judgment-debtor to apply to the Court by which the judgment was given, or to any Court having appellate jurisdiction in respect of the judgment or execution thereof, for an order to stay the execution, or for any other order relating to the judgment or the execution thereof, which such Court of first instance or Court of appeal might have made if execution had been issued by the Court of first instance, or if application for execution had been made to such Court; and in case the property or person of the judgment-debtor shall have been seized under an execution, the Court which issued the execution may order restitution of the property, or the discharge of the person of the debtor, in the mean time.

Court may, in such cases, take security, &c., from judgment-debtor.

3. Before making an order to stay execution, or for the restitution of property, or the discharge of the judgment-debtor, under this Act, the Court may require such security from, or impose such conditions upon, the judgment-debtor, as it may deem reasonable.

Order of Court pronouncing judgment to bind Court enforcing it.

4. Any order of the Court in which the judgment was given or of such Court of appeal as aforesaid, shall be binding upon the Court to which the application for execution was made, and shall be a sufficient indemnity for all persons acting in execution of process issued by such last-mentioned Court.

Defendant discharged under this Act may be re-taken.

5. No discharge of a defendant under the provisions of this Act shall prevent him from being re-taken in execution of the judgment.

Act to be taken as part of Act XXXIII of 1852.

6. This Act shall be read with, and taken as part of, Act No. XXXIII of 1852.

ACT No. IX of 1856.

Received the Governor General's assent on the 11*th April* 1856.

An Act to amend the Law relating to Bills of Lading.[a]

Preamble.

Whereas by the custom of merchants a bill of lading of goods being transferable by endorsement, the property in the goods may thereby pass to the endorsee, but nevertheless all rights in respect of the contract contained in the bill of lading continue in the original shipper or owner, and it is expedient that such rights should pass with the property; And whereas it frequently happens that the goods in respect of which bills of lading purport to be signed have not been laden on board, and it is proper that such bills of lading in the hands of a *bonâ fide* holder for value should not be questioned by the

[a] Copied from 18 & 19 Vic., c. 111.

master or other person signing the same, on the ground of the goods not having been laden as aforesaid: It is enacted as follows:—

1. Every consignee of goods named in a bill of lading, and every endorsee of a bill of lading to whom the property in the goods therein mentioned shall pass, upon or by reason of such consignment or endorsement shall have transferred to and vested in him all rights of suit, and be subject to the same liabilities in respect of such goods as if the contract contained in the bill of lading had been made with himself.

Rights under bills of lading to vest in consignee or endorsee.

2. Nothing herein contained shall prejudice or affect any right of stoppage *in transitu*,[a] or any right to claim freight against the original shipper or owner, or any liability of the consignee or endorsee by reason or in consequence of his being such consignee or endorsee, or of his receipt of the goods by reason or in consequence of such consignment or endorsement.

Not to affect right of stoppage *in transitu* or claims for freight.

3. Every bill of lading in the hands of a consignee or endorsee for valuable consideration, representing goods to have been shipped on board a vessel, shall be conclusive evidence of such shipment as against the master or other person signing the same, notwithstanding that such goods or some part thereof may not have been so shipped, unless such holder of the bill of lading shall have had actual notice at the time of receiving the same that the goods had not in fact been laden on board.

Bill of lading in hands of consignee, &c., conclusive evidence of the shipment as against master, &c.

Provided that the master or other person so signing may exonerate himself in respect of such misrepresentation, by showing that it was caused without any default on his part, and wholly by the fraud of the shipper, or of the holder, or some person under whom the holder claims.

Proviso.

ACT No. XI OF 1856.

Received the Governor General's assent on the 11*th April* 1856.

An Act for the better prevention of desertion by European Soldiers from the Land Forces of Her Majesty in India.

WHEREAS it is expedient to make better provision for apprehending and detaining European deserters from the Land Forces in the service of Her Majesty in India, and for punishing persons who aid and encourage such deserters: It is enacted as follows:—

Preamble.

2. If it shall appear that any officer or soldier, being a deserter from the said Forces, has been concealed on board any merchant vessel, and that the master or person in charge of such vessel for the time being, though ignorant

Penalty on master in certain cases if a deserter be concealed on board his ship.

[a] See Act No. IX of 1872, ss. 99—106.

of the fact of such concealment, might have known of the same but for some neglect of his duty as such master or person, or for the want of proper discipline on board his vessel, such master or person shall be liable to a fine not exceeding five hundred rupees.

Proviso.

Provided always, that no conviction for such offence as is hereinbefore described shall be lawful unless the same shall be stated in the charge which the party is called upon to answer; and in such charge it shall be lawful to state in the alternative that the party has either knowingly harboured or concealed a deserter on board his vessel, or has, by neglect of duty or by reason of the want of proper discipline on board the vessel, allowed such deserter to be so concealed.

Charge may be in the alternative.

Jurisdiction.

2. Any person, whether a European British subject or not, who shall be guilty of an offence punishable under this Act, shall be punishable for the same by any Justice of the Peace for any of the presidency towns of Calcutta, Madras, and Bombay, Magistrate, or person lawfully exercising the powers of a Magistrate in any port within the territories of the East India Company within whose jurisdiction the offence may have been committed, or such person may have been apprehended or found, whether the offence shall have been committed within the local limits of the jurisdiction of such officer or not; and any person hereby made punishable by a Justice of the Peace shall be punishable on summary conviction.

Conviction to be quashed on merits only. Form of conviction, &c.

3. No conviction, order, or judgment of any Justice of the Peace shall be quashed for error of form or procedure, but only on the merits; and it shall not be necessary to state on the face of the conviction, order, or judgment, the evidence on which it proceeds; but the depositions taken, or a copy of them, shall be returned with the conviction, order, or judgment, in obedience to any writ of *certiorari;* and if no jurisdiction appears on the face of the conviction, order, or judgment, but the depositions taken supply that defect, the conviction, order, or judgment shall be aided by what so appears in such depositions.

Saving of proceedings under other Acts.

4. Nothing in this Act contained shall prevent any Justice of the Peace, Magistrate, or other officer having authority in that behalf, from committing for trial any person who shall be charged with an offence punishable under any other Act hereafter to be in force, notwithstanding that such offence may be also punishable under this Act. Provided that no proceedings shall have been had against such person in respect of the same offence under this Act.

Proviso.

Commanding officer or Magistrate may issue warrants

5. Whenever, on information given on oath or solemn affirmation, where by law a solemn affirmation may be used instead of an oath, to the commanding officer of any fort, garrison, station, regiment, or detachment, at any port

or place within the territories of the East India Company, in which no person lawfully exercising magisterial powers can be found, which oath or affirmation the several persons above named shall severally under this Act have power to administer;

for apprehension of deserters.

or whenever, on such information as aforesaid given to any Justice of the Peace, Magistrate, or person lawfully exercising the powers of a Magistrate, having jurisdiction within such port or place,

there shall appear reason to suspect that any European officer or soldier belonging to the said Forces, who may have deserted or be absent without leave, is on board any ship, vessel, or boat, or is concealed on shore at any such port or place within the territories of the East India Company, it shall be lawful for such commanding officer or Justice of the Peace, Magistrate, or person lawfully exercising the powers of a Magistrate as aforesaid, to issue a warrant authorizing the person or persons to whom such warrant may be addressed, to enter into and search, at any time of the day or night, any such ship, vessel, or boat, or any house or place on shore, and to apprehend any such officer or soldier, and to detain him in custody in order to his being dealt with according to law.

Warrant to whom to be addressed and by whom to be executed.

6. The warrant to be issued under the preceding section may be addressed to any European officer or soldier of the said Forces, or to all constables, peace officers, and other persons who may be bound to execute the warrant of any Justice of the Peace, Magistrate, or person lawfully exercising the powers of a Magistrate, and acting in the execution of this Act; and all such persons shall be bound to execute, perform, and obey such warrant.[a]

Persons apprehended how to be dealt with, &c.

7. Every person who shall be apprehended under any warrant under the 5th section of this Act, shall be brought without delay before a Justice of the Peace, Magistrate, or person lawfully exercising the powers of a Magistrate, in or near the place wherein such person shall have been arrested, who shall examine such person, and, if he shall be satisfied, either by the confession of such person or the testimony of one or more witness or witnesses, or by his own knowledge, that such person is a deserter from the said Forces, shall cause him to be delivered, together with any depositions and papers relative to the case, to the commanding officer of the regiment, corps, or detachment to which he shall belong, if the same shall be in or near the place of such arrest, or, if otherwise, then to the commanding officer of the nearest military station, in order that he may be dealt with according to law.

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[a] Now a police-officer may, without orders from a Magistrate and without a warrant, arrest any person reasonably suspected of being a deserter from Her Majesty's Army or Her Majesty's Indian Army—see the Code of Criminal Procedure (Act No. X of 1872), sec. 92, clause 7.

ACT No. XV OF 1856.

Received the Governor General's assent on the 25th July 1856.

An Act to remove all legal obstacles to the marriage of Hindú Widows.[a]

Preamble.

WHEREAS it is known that, by the law as administered in the civil Courts established in the territories in the possession and under the government of the East India Company, Hindú widows, with certain exceptions, are held to be, by reason of their having been once married, incapable of contracting a second valid marriage, and the offspring of such widows by any second marriage are held to be illegitimate and incapable of inheriting property: and whereas many Hindús believe that this imputed legal incapacity, although it is in accordance with established custom, is not in accordance with a true interpretation of the precepts of their religion, and desire that the civil law administered by the Courts of Justice shall no longer prevent those Hindús who may be so minded from adopting a different custom, in accordance with the dictates of their own consciences: and whereas it is just to relieve all such Hindús from this legal incapacity of which they complain; and the removal of all legal obstacles to the marriage of Hindú widows will tend to the promotion of good morals and to the public welfare: It is enacted as follows:

Marriage of Hindú widows legalized.

1. No marriage contracted between Hindús shall be invalid, and the issue of no such marriage shall be illegitimate, by reason of the woman having been previously married or betrothed to another person who was dead at the time of such marriage, any custom and any interpretation of Hindú law to the contrary notwithstanding.

Rights of widow in deceased husband's property to cease on her re-marriage.

2. All rights and interests which any widow may have in her deceased husband's property by way of maintenance, or by inheritance to her husband or to his lineal successors, or by virtue of any will or testamentary disposition conferring upon her, without express permission to re-marry, only a limited interest in such property, with no power of alienating the same, shall, upon her re-marriage, cease and determine as if she had then died;[b] and the next heirs of her deceased husband, or other persons entitled to the property on her death, shall thereupon succeed to the same.

Guardianship of children of deceased husband on the re-marriage of his widow.

3. On the re-marriage of a Hindú widow, if neither the widow nor any other person has been expressly constituted by the will or testamentary disposition of the deceased husband, the guardian of his children, the father or paternal grandfather, or the mother or paternal grandmother, of the deceased

[a] Declared to apply to the whole of British India, except the Scheduled Districts, Act No. XV of 1874. As to the effect of unchastity in the case of a widow who has once inherited, see 13 Beng. 1.

[b] *Párvatí* v. *Bhikú*, 4 Bomb. A. C. J. 25. *Akora Suth* v. *Boreani*, 2 Beng 198.

husband, or any male relative of the deceased husband, may petition the highest Court having original jurisdiction in civil cases in the place where the deceased husband was domiciled at the time of his death, for the appointment of some proper person to be guardian of the said children, and thereupon it shall be lawful for the said Court, if it shall think fit, to appoint such guardian, who, when appointed, shall be entitled to have the care and custody of the said children, or of any of them, during their minority, in the place of their mother; and in making such appointment the Court shall be guided, so far as may be, by the laws and rules in force touching the guardianship of children who have neither father nor mother.

Provided that, when the said children have not property of their own sufficient for their support and proper education whilst minors, no such appointment shall be made otherwise than with the consent of the mother, unless the proposed guardian shall have given security for the support and proper education of the children whilst minors.

Nothing in this Act to render any childless widow capable of inheriting.

4. Nothing in this Act contained shall be construed to render any widow, who, at the time of the death of any person leaving any property, is a childless widow, capable of inheriting the whole or any share of such property, if, before the passing of this Act, she would have been incapable of inheriting the same by reason of her being a childless widow.

Saving of rights of widow marrying, except as provided in sections 2, 3, 4.

5. Except as in the three preceding sections is provided, a widow shall not, by reason of her re-marriage, forfeit any property, or any right to which she would otherwise be entitled; and every widow who has re-married shall have the same rights of inheritance as she would have had, had such marriage been her first marriage.

Ceremonies constituting valid marriage to have same effect on widow's marriage.

6. Whatever words spoken, ceremonies performed, or engagements made, on the marriage of a Hindú female who has not been previously married, are sufficient to constitute a valid marriage, shall have the same effect, if spoken, performed, or made on the marriage of a Hindú widow; and no marriage shall be declared invalid on the ground that such words, ceremonies, or engagements are inapplicable to the case of a widow.

Consent to re-marriage of minor widow.

7. If the widow re-marrying is a minor whose marriage has not been consummated, she shall not re-marry without the consent of her father, or if she has no father, of her paternal grandfather, or if she has no such grandfather, of her mother, or failing all these, of her elder brother, or failing also brothers, of her next male relative.

Punishment for abetting marriage made contrary to this section.

All persons knowingly abetting a marriage made contrary to the provisions of this section shall be liable to imprisonment for any term not exceeding one year, or to fine, or to both.

Effect of such marriage. Proviso.

And all marriages made contrary to the provisions of this section may be declared void by a Court of law. Provided that, in any question regarding the validity of a marriage made contrary to the provisions of this section, such consent as is aforesaid shall be presumed until the contrary is proved, and that no such marriage shall be declared void after it has been consummated.

Consent to re-marriage of major widow.

In the case of a widow who is of full age, or whose marriage has been consummated, her own consent shall be sufficient consent to constitute her re-marriage lawful and valid.

ACT No. II of 1857.

Received the Governor General's assent on the 24th January 1857.

An Act to establish and incorporate an University at Calcutta.

Preamble.

WHEREAS, for the better encouragement of Her Majesty's subjects of all classes and denominations within the presidency of Fort William in Bengal and other parts of India in the pursuit of a regular and liberal course of education, it has been determined to establish an University at Calcutta for the purpose of ascertaining, by means of examination, the persons who have acquired proficiency in different branches of Literature, Science, and Art, and of rewarding them by academical degrees as evidence of their respective attainments, and marks of honour proportioned thereunto; and whereas, for effectuating the purposes aforesaid, it is expedient that such University should be incorporated: It is enacted as follows: (that it is to say)—

Incorporation.

1. The following persons, namely,

The Right Honourable CHARLES JOHN VISCOUNT CANNING,
Governor General of India.

The Honourable JOHN RUSSELL COLVIN,
Lieutenant-Governor of the North-Western Provinces.

The Honourable FREDERICK JAMES HALLIDAY, Lieutenant-Governor of Bengal.

The Honourable Sir JAMES WILLIAM COLVILE, Knight,
Chief Justice of the Supreme Court of Judicature in Bengal.

The Right Reverend DANIEL WILSON,
Doctor of Divinity, Bishop of Calcutta.

The Honourable GEORGE ANSON, General,
Commander-in-Chief of the Forces in India.

The Honourable JOSEPH ALEXANDER DORIN,
Member of the Supreme Council of India.

The Honourable JOHN LOW, Major General,
Companion of the Most Honourable Order of the Bath, Member of the Supreme Council of India.

The Honourable JOHN PETER GRANT,
Member of the Supreme Council of India.

The Honourable BARNES PEACOCK,
Member of the Supreme Council of India.

CHARLES ALLEN, Esquire,
Member of the Legislative Council of India.

HENRY RICKETTS, Esquire,
Provisional Member of the Supreme Council of India.

CHARLES BINNY TREVOR, Esquire,
Judge of the Sadr Court in Bengal.

Prince GHOLAM MUHAMMAD.

WILLIAM RITCHIE, Esquire,
Advocate General in Bengal.

CECIL BEADON, Esquire,
Secretary to the Government of India.

Colonel HENRY GOODWYN, of the Bengal Engineers,
Chief Engineer in Bengal.

WILLIAM GORDON YOUNG, Esquire,
Director of Public Instruction in Bengal.

Lieutenant-Colonel WILLIAM ERSKINE BAKER, of the Bengal Engineers,
Secretary to the Government of India.

Lieutenant-Colonel ANDREW SCOTT WAUGH, of the Bengal Engineers,
Surveyor General of India.

KENNETH MACKINNON, Esquire,
Doctor in Medicine.

HODGSON PRATT, Esquire,
Inspector of Schools in Bengal.

HENRY WALKER, Esquire,
Professor of Anatomy and Physiology in the Medical College of Bengal.

THOMAS THOMPSON, Esquire,
Doctor in Medicine, Superintendent of the Botanical Garden at Calcutta.

FREDERICK JOHN MOUAT, Esquire,
Doctor in Medicine, and Fellow of the Royal College of Surgeons.

Lieutenant WILLIAM NASSAU LEES, of the Bengal Infantry.

The Reverend WILLIAM KAY,
Doctor of Divinity, Principal of Bishop's College.

The Reverend ALEXANDER DUFF,
Doctor of Divinity.

THOMAS OLDHAM, Esquire,
Superintendent of the Geological Survey of India.

HENRY WOODROW, Esquire,
Inspector of Schools in Bengal.

LEONIDAS CLINT, Esquire,
Principal of the Presidency College.

PROSONNO KUMAR TAGORE,
Clerk Assistant of the Legislative Council of India.

RAMAPERSHAD ROY, Government Pleader in the Sadr Court of Bengal.

The Reverend JAMES OGILVIE, Master of Arts.

The Reverend JOSEPH MULLENS, Bachelor of Arts.

Maulaví MUHAMMAD WUJEEH, Principal of the Calcutta Mudrasah.

ISHWAR CHANDRA BIDYA SAGAR,
Principal of the Sanskrit College of Calcutta.

RÁMGOPÁL GHOSE,
Formerly Member of the Council of Education.

ALEXANDER GRANT, Esquire,
Apothecary to the East India Company.

HENRY STEWART REID, Esquire,
Director of Public Instruction in the North-Western Provinces,

being the first Chancellor, Vice-Chancellor, and Fellows of the said University, and all the persons who may hereafter become or be appointed to be Chancellor, Vice-Chancellor, or Fellows as hereinafter mentioned, so long as they shall continue to be such Chancellor, Vice-Chancellor, or Fellows, are hereby constituted and declared to be one Body Politic and Corporate by the name of the University of Calcutta; and such Body Politic shall by such name have perpetual succession, and shall have a common seal, and by such name shall sue and be sued, implead and be impleaded, and answer and be answered unto, in every Court of Justice within the territories in the possession and under the government of the East India Company.

2. The said Body Corporate shall be able and capable in law to take, purchase, and hold any property, moveable or immoveable, which may become vested in it for the purposes of the said University by virtue of any purchase, grant, testamentary disposition, or otherwise; and shall be able and capable in law to grant, demise, alien, or otherwise dispose of all or any of the property, moveable or immoveable, belonging to the said University; and also to do all other matters incidental or appertaining to a Body Corporate. Power to hold and dispose of property.

3. The said Body Corporate shall consist of one Chancellor, one Vice-Chancellor, and such number of *ex officio* and other Fellows as the Governor General of India in Council hath already appointed, or shall from time to time, by any order published in the *Calcutta Gazette*, hereafter appoint; and the Chancellor, Vice-Chancellor, and Fellows for the time being shall constitute the Senate of the said University. Provided that, if any person being Chancellor, Vice-Chancellor, or Fellow of the said University, shall leave India without the intention of returning thereto, his office shall thereupon become vacant. Constitution of Body Corporate. Senate. Office vacated by leaving India.

4. The Governor General of India for the time being shall be the Chancellor of the said University, and the first Chancellor shall be the Right Honourable Charles John Viscount Canning. Chancellor.

5. The first Vice-Chancellor of the said University shall be Sir James William Colvile, Knight. The office of Vice-Chancellor shall be held for two years only; and the Vice-Chancellor herein-before nominated shall go out of office on the first day of January 1859. Whenever a vacancy shall occur in the office of Vice-Chancellor of the said University by death, resignation, departure from India, effluxion of time, or otherwise, the Governor General of India in Council shall, by notification in the *Calcutta Gazette*, nominate a fit and proper person, being one of the Fellows of the said University, to be Vice-Chancellor in the room of the person occasioning such vacancy. Provided that, on any vacancy in the said office which shall occur by effluxion of time, the Governor General of India in Council shall have power to re-appoint the Vice-Chancellor herein-before nominated or any future Vice-Chancellor to such office. Vice-Chancellor.

6. The Lieutenant-Governors of Bengal and the North-Western Provinces, the Chief Justice of the Supreme Court of Judicature at Fort William in Bengal or of any Court of Judicature hereafter to be constituted to or in which the powers of the said Supreme Court may be transferred or vested, the Bishop of Calcutta, and the Members of the Supreme Council of India, all for the time being, shall be *ex officio* Fellows of the said University. Fellows.

The whole number of the Fellows of the said University, exclusive of the Chancellor and Vice-Chancellor for the time being, shall never be less than thirty; and whenever the number of the said Fellows, exclusive as aforesaid, shall by death, resignation, departure from India, or otherwise, be reduced below thirty, the Governor General of India in Council shall forthwith, by notification in the *Calcutta Gazette*, nominate so many fit and proper persons to be Fellows of the said University as, with the then Fellows of the said University, shall make the number of such Fellows, exclusive as aforesaid, thirty. But nothing herein contained shall prevent the Governor General of India in Council from nominating more than thirty persons to be Fellows of the said University if he shall see fit.

The appointment of a Fellow may be cancelled.

7. The Governor General of India in Council may cancel the appointment of any person already appointed, or hereafter to be appointed a Fellow of the University, and as soon as such order is notified in the Gazette, the person so appointed shall cease to be a Fellow.

Chancellor, Vice-Chancellor, and Fellows to superintend the affairs of the University.

8. The Chancellor, Vice-Chancellor, and Fellows for the time being shall have the entire management of and superintendence over the affairs, concerns, and property of the said University; and in all cases unprovided for by this Act, it shall be lawful for the Chancellor, Vice-Chancellor, and Fellows to act in such manner as shall appear to them best calculated to promote the purposes intended by the said University.

Bye-laws.

The said Chancellor, Vice-Chancellor, and Fellows shall have full power from time to time to make and alter any bye-laws and regulations (so as the same be not repugnant to law, or to the general objects and provisions of this Act) touching the examination for degrees and the granting of the same; and touching the examination for honours and the granting of marks of honour for a higher proficiency in the different branches of Literature, Science, and Art; and touching the qualifications of the candidates for degrees and the previous course of instruction to be followed by them, and the preliminary examinations to be submitted to by them; and touching the mode and time of convening the meetings of the Chancellor, Vice-Chancellor, and Fellows; and, in general, touching all other matters whatever regarding the said University. And all such bye-laws and regulations, when reduced into writing, and after the common seal of the said University shall have been affixed thereto, shall be binding upon all persons, members of the said University, and all candidates for degrees to be conferred by the same, provided such bye-laws and regulations shall have been first submitted to and shall have received the approval of the Governor General of India in Council.

9. All questions which shall come before the Chancellor, Vice-Chancellor, and Fellows, shall be decided at a meeting of the Senate by the majority of the members present; and the Chairman at any such meeting shall have a vote, and, in case of an equality of votes, a second or casting vote. **Meetings of the Senate.**

No question shall be decided at any meeting, unless the Chancellor, or Vice-Chancellor, and five Fellows, or, in the absence of the Chancellor and Vice-Chancellor, unless six Fellows at the least, shall be present at the time of the decision.

At every meeting of the Senate, the Chancellor, or in his absence the Vice-Chancellor, shall preside as Chairman; and, in the absence of both, a Chairman shall be chosen by the Fellows present, or the major part of them.

10. The said Chancellor, Vice-Chancellor, and Fellows for the time being shall have full power from time to time to appoint, and, as they shall see occasion, to remove all examiners, officers, and servants of the said University. **Appointment and removal of examiners and officers.**

11. The said Chancellor, Vice-Chancellor, and Fellows, shall have power, after examination, to confer the several degrees of Bachelor of Arts, Master of Arts, Bachelor of Laws, Licentiate of Medicine, Doctor of Medicine, and Master of Civil Engineering; they shall also have power, after examination, to confer upon the candidates for the said several degrees marks of honour for a high degree of proficiency in the different branches of Literature, Science, and Art, according to rules to be determined by the bye-laws to be from time to time made by them under the power in that behalf given to them by this Act. **Power to confer degrees.**

12. Except by special order of the Senate, no person shall be admitted as a candidate for the degree of Bachelor of Arts, Master of Arts, Bachelor of Laws, Licentiate of Medicine, Doctor of Medicine, or Master of Civil Engineering, unless he shall present to the said Chancellor, Vice-Chancellor, and Fellows, a certificate from one of the institutions authorized in that behalf by the Governor General of India in Council, to the effect that he has completed the course of instruction prescribed by the Chancellor, Vice-Chancellor, and Fellows of the said University, in the bye-laws to be made by them under the power in that behalf given by this Act. **Qualification for admission of candidates for degrees.**

13. The said Chancellor, Vice-Chancellor, and Fellows shall cause an examination for degrees to be held at least once in every year; on every such examination, the candidates shall be examined either by examiners appointed for the purpose from among the Fellows by the said Chancellor, Vice-Chancellor, and Fellows, or by other examiners so to be appointed; and on every such examination the candidates, whether candidates for an ordinary degree or for a degree with honours, shall be examined on as many subjects and in such manner as the said Chancellor, Vice-Chancellor, and Fellows shall appoint. **Examination for degrees.**

Grant of degrees.

14. At the conclusion of every examination of the candidates, the examiners shall declare the name of every candidate whom they shall have deemed entitled to any of the said degrees, and his proficiency in relation to other candidates; and also the honours which he may have gained in respect of his proficiency in that department of knowledge in which he is about to graduate; and he shall receive from the said Chancellor a certificate, under the seal of the said University of Calcutta and signed by the said Chancellor or Vice-Chancellor, in which the particulars so stated shall be declared.

Fees.

15. The said Chancellor, Vice-Chancellor, and Fellows shall have power to charge such reasonable fees for the degrees to be conferred by them, and upon admission into the said University, and for continuance therein, as they, with the approbation of the Governor General of India in Council, shall from time to time see fit to impose. Such fees shall be carried to one General Fee Fund for the payment of expenses of the said University, under the directions and regulations of the Governor General of India in Council, to whom the accounts of income and expenditure of the said University shall once in every year be submitted for such examination and audit as the said Governor General of India in Council may direct.

Annual accounts.

ACT No. XI OF 1857.

Received the Governor General's assent on the 30th May 1857.

An Act for the prevention, trial, and punishment of offences against the State.[a]

Preamble.

WHEREAS it is necessary to make due provision for the prevention, trial, and punishment of offences against the State; It is enacted as follows:—

1, 2. [*Repealed by Act No. XVII of* 1862.]

Executive Government may issue a commission for the trial of persons charged with certain offences in any proclaimed district.

3. *Clause* 1.—Whenever the Executive Government of any presidency or place within the said territories shall proclaim that any district subject to its government is or has been in a state of rebellion,[b] it shall be lawful for such Government to issue a commission for the trial of all persons who shall be charged with having committed within such district, after a day to be specified in the commission, any of the crimes mentioned in the preceding sections, or any other crime against the State, or murder, arson, robbery, or other heinous crime against person or property.

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[a] Declared to apply to the whole of British India, except the Scheduled Districts, Act No. XV of 1874.

[b] That is, a disturbed district "in which any great interval between conviction and punishment must deprive the punishment of its due effect," Mr. Peacock's Statement of Objects and Reasons.

Clause 2.—The commissioner or commissioners authorized by any such commission may hold a Court in any part of the said district mentioned in the commission, and may there try any person for any of the said crimes committed within any part thereof; it being the intention of this Act, that the district mentioned in the commission shall, for the purpose of trial and punishment of any of the said offences, be deemed one district.

Court may be held in any part of the district.

4. It shall be lawful for the Executive Government, by such commission, to direct that any Court held under the commission shall have power, without the attendance or fatwá of a law-officer, or the assistance of assessors, to pass upon every person convicted before the Court of any of the aforesaid crimes any sentence warranted by law for such crime; and that the judgment of such Court shall be final and conclusive; and that the said Court shall not be subordinate to the Sadr Court.

Government may vest certain powers in the Court.

5. If a commission be issued under the authority of this Act, any Magistrate within the district which is described in the commission may commit persons charged with any of the aforesaid crimes within such district for trial before a Court to be held under this Act.

Magistrate may commit for trial before Court held under this Act.

6. Nothing in this Act shall extend to the trial or punishment of any of Her Majesty's natural-born subjects born in Europe, or of the children of such subjects.

Act not to apply to British-born subjects or their children.

7. Whenever the Executive Government shall deem it necessary for the public safety, it shall be lawful for such Government to declare, by proclamation, that from and after a day to be named therein, it shall not be lawful for any person, or for any specified class of persons, to carry or have in their possession any arms or instruments used for warlike purposes, or any specified description of arms or instruments aforesaid within any district mentioned in the proclamation.

Government may issue proclamation prohibiting the carrying or possession of arms in any district.

8. After the day named in the proclamation, whoever shall carry, or have in his possession, any arms or other such instrument as aforesaid contrary to the proclamation, shall be liable, on conviction before a Magistrate, to a fine not exceeding fifty rupees, or to imprisonment for a period not exceeding six months; and the arms or other such instrument as aforesaid shall be confiscated.

Penalty for unlawful possession of arms, &c.

9. It shall be lawful for a Magistrate, by warrant, to cause search to be made in any house or other place in which there may be reasonable grounds for suspecting that any arms or other such instrument as aforesaid, kept contrary to the proclamation, may be found; and any such arms or instrument may be seized and confiscated.

Magistrate empowered to search houses, &c., and to seize arms.

Government may grant exemption to certain persons.

10. Nothing in sections 7, 8, and 9 of this Act shall extend to any person who may be exempted by the authority of the Executive Government from the prohibition contained in such proclamation.

Interpretation-clause.

11. The word "Magistrate" in this Act shall include any person lawfully exercising the powers of a Magistrate and any Assistant to a Magistrate or Deputy Magistrate specially authorized by the Executive Government to exercise the powers vested in a Magistrate by this Act.

ACT No. XX OF 1857.[a]

Received the Governor General's assent on the 10*th July* 1857.

An Act to amend Act IX of 1850.

Preamble.

WHEREAS it is expedient that authority should be given to vary the rate of diet-money to be deposited for the subsistence of persons imprisoned under Act IX of 1850; It is enacted as follows:—

Power to regulate rate of diet-money prescribed in Act IX of 1850, s. 62.

1. Whenever, with reference to the price of provisions in any presidency, the Governor in Council[b] shall be of opinion that the rate of diet-money prescribed in section 62 of Act IX of 1850 is insufficient for the subsistence of persons imprisoned under that Act, it shall be lawful for the Governor in Council from time to time to fix such other rate, not exceeding three annas for each day, as may to him seem sufficient.

Court may vary the rate in case of illness or for other special cause.

2. It shall be lawful for a Judge of a Court of Small Causes holden under the said Act, in case of illness or for other special cause, to order that the diet-money to be deposited for the subsistence of a prisoner taken in execution under a warrant of the Court shall be deposited after such rate, not exceeding six annas for each day, as may to him seem necessary. Every such order may from time to time be revised and altered on due cause being shown.

Construction.

3. This Act shall be read with and taken as a part of Act IX of 1850.

ACT No. XXII OF 1857.

Received the Governor General's assent on the 18*th July* 1857.

An Act to establish and incorporate an University at Bombay.

Preamble.

WHEREAS, for the better encouragement of Her Majesty's subjects of all classes and denominations within the presidency of Bombay and other parts

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[a] Repealed as to the Presidency and to the Court of Small Causes of Bombay by Bombay Act No. VI of 1864.

[b] See Act No. IX of 1850, s. 2.

of India in the pursuit of a regular and liberal course of education, it has been determined to establish an University at Bombay for the purpose of ascertaining, by means of examination, the persons who have acquired proficiency in different branches of Literature, Science, and Art, and of rewarding them by academical degrees as evidence of their respective attainments, and marks of honour proportioned thereunto; and whereas, for effectuating the purposes aforesaid, it is expedient that such University should be incorporated; It is enacted as follows: (that is to say)—

Incorporation.

1. The following persons, namely,

The Right Honourable JOHN, LORD ELPHINSTONE,
Governor of Bombay.

The Honourable Sir WILLIAM YARDLEY, Knight,
Chief Justice of the Supreme Court of Judicature at Bombay.

The Right Reverend JOHN HARDING,
Doctor of Divinity, Bishop of Bombay, *ex officio.*

The Honourable Sir HENRY SOMERSET, Lieutenant-General,
Knight Companion of the Most Honourable Order of the Bath;
Commander-in-Chief of the Forces in Bombay, *ex officio.*

The Honourable JAMES GRANT LUMSDEN,
Member of the Council of Bombay, *ex officio.*

The Honourable ARTHUR MALET,
Member of the Council of Bombay, *ex officio.*

EDWARD IRVINE HOWARD, Esquire,
Director of Public Instruction, *ex officio.*

ROBERT HAINES, Esquire, M. D.,
Acting Educational Inspector, Presidency Division, *ex officio.*

C. MOREHEAD, Esquire, M. D.,
Principal of the Grant Medical College, *ex officio.*

JOHN HARKNESS, Esquire, L. L. D.,
Principal of the Elphinstone College, *ex officio.*

The Reverend JAMES MCDOUGALL,
Acting Principal of the Poona College, *ex officio.*

PHILIP WILLIAM LEGEYT, Esquire,
Member of the Legislative Council of India.

The Honourable Sir MATTHEW RICHARD SAUSSE, Knight,
Puisne Judge of the Supreme Court of Judicature at Bombay.

Sir JAMSETJEE JEEJEEBHOY, Knight.

METCALFE LARKEN, Esquire,
Judge of the Sadr Court in Bombay, and President
of the late Board of Education.

JUGGONAUTH SUNKERSETT, Esquire,
Member of the late Board of Education.

BOMANJEE HORMUSJEE, Esquire,
Member of the late Board of Education.

BHAO DAJEE, Esquire,
Graduate of the Grant Medical College,
Member of the late Board of Education.

MATTHEW STOVELL, Esquire,
Surgeon in the Bombay Army,
Secretary to the late Board of Education.

CLAUDIUS JAMES ERSKINE, Esquire,
Civil Service, late Director of Public Instruction.

WILLIAM EDWARD FRERE, Esquire,
Member of the Royal Asiatic Society, and
President of the Bombay Branch of the Royal Asiatic Society,
Judge of the Sadr Court in Bombay.

Major-General CHARLES WADDINGTON,
Companion of the Most Honourable Order of the Bath,
Chief Engineer of Public Works.

The Reverend JOHN WILSON,
Doctor of Divinity, Fellow of the Royal Society,
Honourary President of the Bombay Branch of the Royal Asiatic Society.

The Reverend PHILIP ANDERSON, Master of Arts,
Chaplain on the Bombay Establishment.

HENRY BARTLE EDWARD FRERE, Esquire,
Commissioner in Sindh.

Lieutenant EDWARD FREDERICK TIERNEY FERGUSSON, Indian Navy.

MAHOMED YUSOOF MOORGAY, Kázi of Bombay.

JAMES JOHN BERKLEY, Esquire,
Fellow of the Geographical Society, M. I. C. E.,
President of the Bombay Mechanics' Institution, and
Chief Resident Engineer of the Great Indian Peninsula Railway Company.

HENRY LACON ANDERSON, Esquire,
Secretary to Government,

being the first Chancellor, Vice-Chancellor, and Fellows of the said University, and all the persons who may hereafter become or be appointed to be Chancellor, Vice-Chancellor, or Fellows as hereinafter mentioned, so long as they shall continue to be such Chancellor, Vice-Chancellor, or Fellows, are hereby constituted and declared to be one Body Politic and Corporate by the name of the University of Bombay; and such Body Politic shall by such name have perpetual succession, and shall have a common seal, and by such name shall sue and be sued, implead and be impleaded, and answer and be answered unto, in every Court of Justice within the territories in the possession and under the government of the East India Company.

Power to hold and dispose of property.

2. The said Body Corporate shall be able and capable in law to take, purchase, and hold any property, moveable or immoveable, which may become vested in it for the purposes of the said University by virtue of any purchase, grant, testamentary disposition, or otherwise; and shall be able and capable in law to grant, demise, alien, or otherwise dispose of all or any of the property, moveable or immoveable, belonging to the said University; and also to do all other matters incidental or appertaining to a Body Corporate.

Constitution of Body Corporate.

3. The said Body Corporate shall consist of one Chancellor, one Vice-Chancellor, and such number of *ex officio* and other Fellows as the Governor of Bombay in Council hath already appointed, or shall from time to time, by any order published in the *Bombay Gazette*, hereafter appoint; and the Chancellor, Vice-Chancellor, and Fellows for the time being shall constitute the Senate of the said University. Provided that, if any person being Chancellor, Vice-Chancellor, or Fellow of the said University, shall leave India without the intention of returning thereto, his office shall thereupon become vacant.

Senate.

Office vacated by leaving India.

Chancellor.

4. The Governor of Bombay for the time being shall be the Chancellor of the said University, and the first Chancellor shall be the Right Honourable John, Lord Elphinstone.

Vice-Chancellor.

5. The first Vice-Chancellor of the said University shall be Sir William Yardley, Knight. The office of Vice-Chancellor shall be held for two years only; and the Vice-Chancellor hereinbefore nominated shall go out of office on the first day of January 1859. Whenever a vacancy shall occur in the office of Vice-Chancellor of the said University by death, resignation, departure from India, effluxion of time, or otherwise, the Governor of Bombay in Council shall, by notification in the *Bombay Gazette,* nominate a fit and proper person, being one of the Fellows of the said University, to be Vice-Chancellor in the room of the person occasioning such vacancy. Provided that, on any vacancy in the said office which shall occur by effluxion of time, the Governor of Bombay in Council shall have power to re-appoint the Vice-Chancellor hereinbefore nominated, or any future Vice-Chancellor, to such office.

Fellows.

6. The Chief Justice of Her Majesty's Supreme Court of Judicature, the Bishop of Bombay, the Members of the Council of Bombay, the Director or Acting Director of Public Instruction, the Educational Inspector or Acting Educational Inspector of the Presidency Division, the Principals and Acting Principals of Government Colleges, all for the time being, shall, while filling such offices, be *ex officio* Fellows of the said University. The whole number of the Fellows of the said University, exclusive of the Chancellor and Vice-Chancellor for the time being, shall never be less than twenty-six; and whenever the number of the said Fellows, exclusive as aforesaid, shall by death, resignation, departure from India, or otherwise, be reduced below twenty-six, the Governor of Bombay in Council shall forthwith, by notification in the *Bombay Gazette,* nominate so many fit and proper persons to be Fellows of the said University as, with the then Fellows of the said University, shall make the number of such Fellows, exclusive as aforesaid, twenty-six. But nothing herein contained shall prevent the Governor of Bombay in Council from nominating more than twenty-six persons to be Fellows of the said University if he shall see fit.

The appointment of a Fellow may be cancelled.

7. The Governor of Bombay in Council may cancel the appointment of any person already appointed or hereafter to be appointed a Fellow of the University; and as soon as such order is notified in the Gazette, the person so appointed shall cease to be a Fellow.

Chancellor, Vice-Chancellor, and Fellows, to superintend the affairs of the University.

8. The Chancellor, Vice-Chancellor, and Fellows for the time being shall have the entire management of and superintendence over the affairs, concerns, and property of the said University; and in all cases unprovided for by this Act, it shall be lawful for the Chancellor, Vice-Chancellor, and Fellows to act in such manner as shall appear to them best calculated to promote the purposes intended by the said University. The said Chancellor, Vice-Chancellor, and

Fellows shall have full power from time to time to make and alter any bye-laws and regulations (so as the same be not repugnant to law, or to the general objects and provisions of this Act) touching the examination for degrees and the granting of the same; and touching the examination for honours and the granting of marks of honour for a higher proficiency in the different branches of Literature, Science, and Art; and touching the qualifications of the candidates for degrees, and the previous course of instruction to be followed by them, and the preliminary examinations to be submitted to by them; and touching the mode and time of convening the meetings of the Chancellor, Vice-Chancellor, and Fellows; and, in general, touching all other matters whatever regarding the said University. And all such bye-laws and regulations, when reduced into writing, and after the common seal of the said University shall have been affixed thereto, shall be binding upon all persons, members of the said University, and all candidates for degrees to be conferred by the same, provided such bye-laws and regulations shall have been first submitted to and shall have received the approval of the Governor of Bombay in Council. Bye-laws.

9. All questions which shall come before the Chancellor, Vice-Chancellor, and Fellows, shall be decided at a meeting of the Senate by the majority of the members present; and the Chairman at any such meeting shall have a vote, and, in case of an equality of votes, a second or casting vote. No question shall be decided at any meeting, unless the Chancellor, or Vice-Chancellor, and five Fellows, or, in the absence of the Chancellor and Vice-Chancellor, unless six Fellows at the least shall be present at the time of the decision. At every meeting of the Senate, the Chancellor, or in his absence the Vice-Chancellor, shall preside as Chairman; and, in the absence of both, a Chairman shall be chosen by the Fellows present, or the major part of them. Meetings of the Senate.

10. The said Chancellor, Vice-Chancellor, and Fellows for the time being shall have full power from time to time to appoint, and as they shall see occasion to remove, all examiners, officers, and servants of the said University. Appointment and removal of examiners and officers.

11. The said Chancellor, Vice-Chancellor, and Fellows, shall have power, after examination, to confer the several degrees of Bachelor of Arts, Master of Arts, Bachelor of Laws, Licentiate of Medicine, Doctor of Medicine, and Master of Civil Engineering; they shall also have power, after examination, to confer upon the candidates for the said several degrees marks of honour for a high degree of proficiency in the different branches of Literature, Science, and Art, according to rules to be determined by the bye-laws to be from time Power to confer degrees.

to time made by them under the power in that behalf given to them by this Act.

Qualification for admission of candidates for degrees.

12. Except by special order of the Senate, no person shall be admitted as a candidate for the degree of Bachelor of Arts, Master of Arts, Bachelor of Laws, Licentiate of Medicine, Doctor of Medicine, or Master of Civil Engineering, unless he shall present to the said Chancellor, Vice-Chancellor, and Fellows, a certificate from one of the institutions authorized in that behalf by the Governor of Bombay in Council, to the effect that he has completed the course of instruction prescribed by the Chancellor, Vice-Chancellor, and Fellows of the said University, in the bye-laws to be made by them under the power in that behalf given by this Act.

Examination for degrees.

13. The said Chancellor, Vice-Chancellor, and Fellows shall cause an examination for degrees to be held at least once in every year; on every such examination the candidates shall be examined either by examiners appointed for the purpose from among the Fellows by the said Chancellor, Vice-Chancellor, and Fellows, or by other examiners so to be appointed; and on every such examination the candidates, whether candidates for an ordinary degree, or for a degree with honours, shall be examined on as many subjects and in such manner as the said Chancellor, Vice-Chancellor, and Fellows shall appoint.

Grant of degrees.

14. At the conclusion of any examination of the candidates, the examiners shall declare the name of every candidate whom they shall have deemed entitled to any of the said degrees, and his proficiency in relation to other candidates; and also the honours which he may have gained in respect of his proficiency in that department of knowledge in which he is about to graduate; and he shall receive from the said Chancellor a certificate, under the seal of the said University of Bombay and signed by the said Chancellor or Vice-Chancellor, in which the particulars so stated shall be declared.

Fees.

15. The said Chancellor, Vice-Chancellor, and Fellows shall have power to charge such reasonable fees for the degrees to be conferred by them, and upon admission into the said University, and for continuance therein, as they, with the approbation of the Governor of Bombay in Council, shall from time to time see fit to impose. Such fees shall be carried to one General Fee Fund for the payment of expenses of the said University, under the directions and regulations of the Governor of Bombay in Council, to whom the accounts of income and expenditure of the said University shall once in every year be submitted for such examination and audit as the said Governor of Bombay in Council may direct.

Annual accounts.

ACT No. XXV of 1857.

Received the Governor General's assent on the 8th August 1857.

An Act to render Officers and Soldiers in the Native Army liable to forfeiture of property for Mutiny, and to provide for the adjudication and recovery of forfeitures of property in certain cases.[a]

WHEREAS it is expedient to render officers and soldiers in the Native Army, who shall be convicted of mutiny, subject to the forfeiture of all their property, and to provide for the adjudication and recovery of forfeitures in certain cases; It is enacted as follows:— Preamble.

1. [*Repealed by Act No. V of* 1869, *Part I*, (*c*).]

2. If any person who shall have committed treason or any offence for which, by this Act, or Act XI of 1857, or Act XIV of 1857, or Act XVI of 1857, his property is declared to be forfeited, shall have been killed, or shall have died, or shall have escaped out of the territories of the East India Company, before he shall have been convicted of the offence, or cannot after diligent search be found; any Court or other authority which might have tried such offender, if he could have been brought to trial, shall, upon the application of the Magistrate[b] or other officer authorized by Government to make such application, hold an enquiry, and on proof that the person charged with having committed the offence was guilty thereof, and that he is dead, or has escaped out of the territories of the East India Company, or cannot after diligent search be found, shall adjudge that all the property of such offender shall be forfeited to Government. Adjudication of forfeiture in case of death or escape of offender before conviction of an offence for which property is liable to be forfeited.

3. The forfeiture, whether upon conviction of such an offence as aforesaid[c] or upon an adjudication of forfeiture under this Act, shall extend to all property and effects of or to which the offender shall have been possessed or entitled,[d] either at the time of committing the offence, or at the time of the conviction or of the adjudication of forfeiture, or at any intermediate time; and no sale, alienation, or other disposition of such property, made subsequently to the commission of the offence or made at any time with the fraudulent intention of preventing a forfeiture, shall have any effect against the right of Government to the forfeiture. Provided that nothing in this section contained shall affect any transferree of any negotiable security, who shall Forfeiture to extend to all property possessed by offender at the date of offence. Proviso.

[a] Declared to apply to the whole of British India, except the Scheduled Districts, Act No. XV of 1874.

[b] See sec. 11 *infra*.

[c] *Ganeshlal* v. *Amír Khán*, 8 Beng. 63.

[d] Marshall 259, 308.

prove that he acquired the same in good faith and with due caution for valuable consideration.

Forfeiture of land voluntarily alienated before committing offence.

4. All immoveable property of the offender, which shall be alienated after the passing of this Act and before the commission of any offence specified in section 2, shall be forfeited in the same manner as if no such alienation had been made, unless the alienation be made in good faith and for valuable consideration, or unless the same shall have been made and registered more than three months before the commission of the offence.[a]

Court may specify in conviction date of offence.

5. The Court, or other authority by which the offender shall be convicted or the forfeiture shall be adjudged, may specify in the conviction or adjudication the day on which the offence was committed, if it can be ascertained.

Matters proved by conviction or adjudication.

6. In any proceeding concerning property alleged to have been forfeited, the conviction shall be conclusive evidence that the offence was committed, and (if the day be specified in such conviction) that the offence was committed on that day; if the day be not specified, the conviction shall be *primâ facie* evidence that the offence was committed on the day mentioned in the charge. In any such proceeding, an adjudication of forfeiture under this Act shall be *primâ facie* evidence of the commission of the offence, and (if the day be specified in the adjudication) that the offence was committed on that day; if the day be not specified, the adjudication shall be *primâ facie* evidence that the offence was committed on the day mentioned in the charge.[b] Any adjudication under this Act shall be filed with and may be proved in the same manner as the records of the principal Court of criminal jurisdiction of the district.

Procedure for recovery of forfeited property.

7. After the conviction or adjudication, the collector or other chief officer appointed by Government for the collection of revenue, or any other officer whom the Government may specially appoint, may seize and take possession of the forfeited property: if he require the assistance of a Court to enable him to obtain possession of any such property by reason of any dispute respecting the title to the same or for any other cause, the principal civil Court of original jurisdiction of the district in which the property is situate may, upon the production of a certified copy of the conviction or adjudication, hear and determine in a summary manner upon petition any matter in dispute relating to such property. Any order which may be passed by the Court shall not be subject to appeal; but the party against whom the same may be given, by

[a] This is 'to prevent a disposition of his lands by gift, &c., on the part of a person contemplating the commission of any of the specified offences.' *Report.*

[b] 'When an offender appears to take his trial, and is convicted, the conviction should be conclusive evidence of his guilt and also of the time when the offence was committed (if the conviction states the time). But when the guilt of the offender and the forfeiture of his property are adjudged in his absence, or after his death, the adjudication should, we think, be no more than *primâ facie* proof' *Report.*

any Court other than one of Her Majesty's Supreme Courts of Judicature, shall be at liberty to bring a suit to establish his right at any time within one year from the date of the order.

8. In case any person whose property shall have been so adjudged to be forfeited shall within one year after the seizure of any part of his property as a forfeiture surrender himself, and shall upon trial before a competent Court be acquitted of the offence, his property or the proceeds thereof shall be restored upon proof, to the satisfaction of the Court, that he did not escape or keep out of the way for the purpose of evading justice.

Forfeited property or the proceeds to be restored upon proof that escape was not for the purpose of evading justice.

9. [*Repealed by Act No. IX of* 1871.[a]]

10. In case it shall appear to a Magistrate that there is reasonable ground to suppose that any person is guilty of any offence specified in section 2 of this Act, and that any property liable to forfeiture for the offence is likely to be made away with, it shall be lawful for the Magistrate to attach such property and secure the same until the trial of the offender or until an enquiry for the purpose of adjudication under this Act shall be had.[b]

Power to secure property before forfeiture in certain cases.

11. The word "Magistrate" in this Act shall include any officer competent to commit for trial for any offence specified in section 2 of this Act.

Interpretation-clause.

ACT No. XXVII OF 1857.

Received the Governor General's assent on the 5th September 1857.

An Act to establish and incorporate an University at Madras.

WHEREAS, for the better encouragement of Her Majesty's subjects of all classes and denominations within the presidency of Fort St. George and other parts of India in the pursuit of a regular and liberal course of education, it has been determined to establish an University at Madras for the purpose of ascertaining, by means of examination, the persons who have acquired proficiency in different branches of Literature, Science, and Art, and of rewarding them by academical degrees as evidence of their respective attainments, and marks of honour proportioned thereunto; and whereas, for effectuating the purposes aforesaid, it is expedient that such University should be incorporated: It is enacted as follows: (that is to say)—

Preamble.

1. The following persons, namely,

Incorporation.

The Right Honourable GEORGE FRANCIS ROBERT, LORD HARRIS,
Governor of Fort St. George.

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[a] But see 13 Beng. 445.

[b] The object of this section is "to prevent the making away with property liable to forfeiture during the interval before trial or adjudication." *Report.*

The Honourable SIR CHRISTOPHER RAWLINSON, Knight,
Chief Justice of the Supreme Court of Judicature at Madras.

The Right Reverend THOMAS DEALTRY,
Doctor of Divinity, Bishop of Madras, *ex officio.*

The Honourable SIR PATRICK GRANT, Lieutenant-General, Knight Commander of the Most Honourable Order of the Bath,
Commander-in-Chief of the Forces in Madras, *ex officio.*

The Honourable WALTER ELLIOT,
Member of the Council of Madras, *ex officio.*

The Honourable SIR HENRY CONYNGHAM MONTGOMERY, Baronet,
Member of the Council of Madras, *ex officio.*

ALEXANDER JOHN ARBUTHNOT, Esquire,
Director of Public Instruction, *ex officio.*

EYRE BURTON POWELL, Esquire,
Principal of the Presidency College, *ex officio.*

HENRY FORTEY, Esquire,
Acting Principal of the Presidency College, *ex officio.*

JAMES KELLIE, Esquire,
President of the Medical College Council, *ex officio.*

The Honourable SIR HENRY DAVISON, Knight,
Puisne Judge of the Supreme Court of Judicature at Madras.

THOMAS PYCROFT, Esquire,
Chief Secretary to Government.

EDWARD MALTBY, Esquire,
Acting Chief Secretary to Government.

JAMES DEWAR BOURDILLON, Esquire,
Secretary to Government.

HENRY FORBES, Esquire,
Acting Secretary to Government.

Colonel CHARLES ALFRED BROWNE,
Secretary to Government.

JAMES BLAIR PRESTON, Esquire.
Physician General.

The Reverend ROBERT HALLEY, Master of Arts,
Principal of the Doveton College.

J. TOWNSHEND FOWLER, Esquire,
Principal of the Government Normal School.

P. SOOBROYOOLOO NAIDOO,
President of Patcheapah's Institution.

WILLIAM AMBROSE MOREHEAD, Esquire,
Provisional Member of the Council of Madras.

GUY LUSHINGTON PRENDERGAST, Esquire,
Accountant General.

Colonel ARTHUR THOMAS COTTON,
Commandant of Engineers.

Colonel CHARLES EDWARD FABER,
Chief Engineer in the Department of Public Works.

Lieutenant-Colonel THOMAS TOWNSEND PEARS, Companion of the Most Honourable Order of the Bath,
Consulting Engineer for Railways.

Lieutenant-Colonel GEORGE BALFOUR, Companion of the Most Honourable Order of the Bath.

The Reverend JOHN RICHARDS, Master of Arts.

Lieutenant-Colonel FREDERICK CONYERS COTTON,
Acting Mint Master.

CHITTUR RUNGANADUM SASTRY,
Head Interpreter in the Supreme Court of Judicature.

JOHN EMELIUS MAYER, Esquire,
Professor of Chemistry and Pharmacy in the Madras Medical College.

The Reverend ROBERT KERR HAMILTON, Master of Arts.

The Reverend GEORGE HALL, Master of Arts.

The Reverend PETER SORENSON ROYSTON, Bachelor of Arts.

JAMES SANDERSON, Esquire,
Surgeon in the Madras Army.

The Reverend JOHN BRAIDWOOD, Master of Arts.

JOHN DAWSON MAYNE, Bachelor of Arts,
Professor of Law, Moral and Mental Philosophy, and Logic, in the Presidency College.

RICHARD BURGASS, Esquire, Master of Arts,
First Judge of the Court of Small Causes.

Lieutenant-Colonel JOHN JOSEPH LOSH, Military Auditor General.

WILLIAM JUDSON VANSOMEREN, Esquire, Doctor in Medicine,
Professor of Anatomy and Physiology in the Madras Medical College.

SAMUEL JESUDASEN, Native Surgeon.

Major JOHN MAITLAND, Superintendent, Gun-carriage Manufactory.
The Reverend A. BURGESS,
The Reverend W. GRANT,

being the first Chancellor, Vice-Chancellor, and Fellows of the said University, and all the persons who may hereafter become or be appointed to be Chancellor, Vice-Chancellor, or Fellows as hereinafter mentioned, so long as they shall continue to be such Chancellor, Vice-Chancellor, or Fellows, are hereby constituted and declared to be one Body Politic and Corporate by the name of the University of Madras; and such Body Politic shall by such name have perpetual succession, and shall have a common seal, and by such name shall sue and be sued, implead and be impleaded, and answer and be answered unto, in every Court of Justice within the territories in the possession and under the government of the East India Company.

Power to hold and dispose of property.

2. The said Body Corporate shall be able and capable in law to take, purchase, and hold any property, moveable or immoveable, which may become vested in it for the purposes of the said University by virtue of any purchase, grant, testamentary disposition, or otherwise; and shall be able and capable in law to grant, demise, alien, or otherwise dispose of, all or any of the property, moveable or immoveable, belonging to the said University; and also to do all other matters incidental or appertaining to a Body Corporate.

Constitution of Body Corporate.

Senate

Office vacated by leaving India.

3. The said Body Corporate shall consist of one Chancellor, one Vice-Chancellor, and such number of *ex officio* and other Fellows as the Governor of Fort St. George in Council hath already appointed, or shall from time to time, by any order published in the *Fort St. George Gazette*, hereafter appoint; and the Chancellor, Vice-Chancellor, and Fellows for the time being shall constitute the Senate of the said University. Provided that, if any person being Chancellor, Vice-Chancellor, or Fellow of the said University, shall leave India without the intention of returning thereto, his office shall thereupon become vacant.

4. The Governor of Fort St. George for the time being shall be the Chancellor of the said University, and the first Chancellor shall be the Right Honourable George Francis Robert, Lord Harris. Chancellor.

5. The first Vice-Chancellor of the said University shall be Sir Christopher Rawlinson, Knight. The office of Vice-Chancellor shall be held for two years only; and the Vice-Chancellor hereinbefore nominated shall go out of office on the first day of January 1859. Whenever a vacancy shall occur in the office of Vice-Chancellor of the said University by death, resignation, departure from India, effluxion of time, or otherwise, the Governor of Fort St. George in Council shall, by notification in the *Fort St. George Gazette*, nominate a fit and proper person, being one of the Fellows of the said University, to be Vice-Chancellor in the room of the person occasioning such vacancy Provided that, on any vacancy in the said office which shall occur by effluxion of time, the Governor of Fort St. George in Council shall have power to re-appoint the Vice-Chancellor hereinbefore nominated or any future Vice-Chancellor to such office. Vice-Chancellor.

6. The Chief Justice of Her Majesty's Supreme Court of Judicature, the Bishop of Madras, the Members of the Council of Madras, the Director of Public Instruction, the Principal and Acting Principal of the Presidency College, the President of the Medical College Council, all for the time being, shall, while filling such offices, be *ex officio* Fellows of the said University. The whole number of the Fellows of the said University, exclusive of the Chancellor and Vice-Chancellor for the time being, shall never be less than thirty; and whenever the number of the said Fellows, exclusive as aforesaid, shall, by death, resignation, departure from India, or otherwise, be reduced below thirty, the Governor of Fort St. George in Council shall forthwith, by notification in the *Fort St. George Gazette*, nominate so many fit and proper persons to be Fellows of the said University, as, with the then Fellows of the said University, shall make the number of such Fellows, exclusive as aforesaid, thirty. But nothing herein contained shall prevent the Governor of Fort St. George in Council from nominating more than thirty persons to be Fellows of the said University if he shall see fit. Fellows.

7. The Governor of Fort St. George in Council may cancel the appointment of any person already appointed or hereafter to be appointed a Fellow of the University, and as soon as such order is notified in the Gazette, the person so appointed shall cease to be a Fellow. The appointment of a Fellow may be cancelled.

8. The Chancellor, Vice-Chancellor, and Fellows for the time being, shall have the entire management of and superintendence over the affairs, concerns, and property of the said University; and in all cases unprovided Chancellor, Vice-Chancellor, and Fellows to super-

intend the affairs of the University.

for by this Act, it shall be lawful for the Chancellor, Vice-Chancellor, and Fellows to act in such manner as shall appear to them best calculated to promote the purposes intended by the said University. The said Chancellor, Vice-Chancellor, and Fellows shall have full power from time to time to make and alter any bye-laws and regulations (so as the same be not repugnant to law or to the general objects and provisions of this Act) touching the examination for degrees and the granting of the same, and touching the examination for honours and the granting of marks of honour for a higher proficiency in the different branches of Literature, Science, and Art; and touching the qualifications of the candidates for degrees and the previous course of instruction to be followed by them, and the preliminary examinations to be submitted to by them; and touching the mode and time of convening the meetings of the Chancellor, Vice-Chancellor, and Fellows; and, in general, touching all other matters whatever regarding the said University. And all such bye-laws and regulations, when reduced into writing, and after the common seal of the said University shall have been affixed thereto, shall be binding upon all persons, members of the said University, and all candidates for degrees to be conferred by the same, provided such bye-laws and regulations shall have been first submitted to, and shall have received the approval of, the Governor of Fort St. George in Council.

Bye-laws.

Meetings of the Senate.

9. All questions which shall come before the Chancellor, Vice-Chancellor, and Fellows, shall be decided at a meeting of the Senate by the majority of the members present; and the Chairman at any such meeting shall have a vote, and, in case of an equality of votes, a second or casting vote. No question shall be decided at any meeting, unless the Chancellor, or Vice-Chancellor, and five Fellows, or, in the absence of the Chancellor and Vice-Chancellor, unless six Fellows at the least shall be present at the time of the decision. At every meeting of the Senate, the Chancellor, or in his absence the Vice-Chancellor, shall preside as Chairman; and in the absence of both, a Chairman shall be chosen by the Fellows present, or the major part of them.

Appointment and removal of examiners and officers.

10. The said Chancellor, Vice-Chancellor, and Fellows for the time being shall have full power from time to time to appoint and, as they shall see occasion, to remove all examiners, officers, and servants of the said University.

Power to confer degrees.

11. The said Chancellor, Vice-Chancellor, and Fellows shall have power, after examination, to confer the several degrees of Bachelor of Arts, Master of Arts, Bachelor of Laws, Licentiate of Medicine, Doctor of Medicine, and Master of Civil Engineering; they shall also have power, after examination, to confer upon the candidates for the said several degrees, marks of honour for a high degree of proficiency in the different branches of Literature, Science,

and Art, according to rules to be determined by the bye-laws to be from time to time made by them under the power in that behalf given to them by this Act.

Qualification for admission of candidates for degrees.

12. Except by special order of the Senate, no person shall be admitted as a candidate for the degree of Bachelor of Arts, Master of Arts, Bachelor of Laws, Licentiate of Medicine, Doctor of Medicine, or Master of Civil Engineering, unless he shall present to the said Chancellor, Vice-Chancellor, and Fellows, a certificate from one of the institutions authorized in that behalf by the Governor of Fort St. George in Council, to the effect that he has completed the course of instruction prescribed by the Chancellor, Vice-Chancellor, and Fellows of the said University, in the bye-laws to be made by them under the power in that behalf given by this Act.

Examination for degrees.

13. The said Chancellor, Vice-Chancellor, and Fellows shall cause an examination for degrees to be held at least once in every year; on every such examination, the candidates shall be examined either by examiners appointed for the purpose from among the Fellows by the said Chancellor, Vice-Chancellor, and Fellows, or by other examiners so to be appointed; and on every such examination the candidates, whether candidates for an ordinary degree, or for a degree with honours, shall be examined on as many subjects and in such manner as the said Chancellor, Vice-Chancellor, and Fellows shall appoint.

Grant of degrees.

14. At the conclusion of any examination of the candidates, the examiners shall declare the name of every candidate whom they shall have deemed entitled to any of the said degrees, and his proficiency in relation to other candidates; and also the honours which he may have gained in respect of his proficiency in that department of knowledge in which he is about to graduate; and he shall receive from the said Chancellor a certificate, under the seal of the said University of Madras, and signed by the said Chancellor or Vice-Chancellor, in which the particulars so stated shall be declared.

Fees.

15. The said Chancellor, Vice-Chancellor, and Fellows shall have power to charge such reasonable fees for the degrees to be conferred by them, and upon admission into the said University, and for continuance therein, as they, with the approbation of the Governor of Fort St. George in Council, shall from time to time see fit to impose. Such fees shall be carried to one General Fee Fund for the payment of expenses of the said University under the directions and regulations of the Governor of Fort St. George in Council, to whom the accounts of income and expenditure of the said University shall once in every year be submitted for such examination and audit as the said Governor of Fort St. George in Council may direct.

Annual accounts.

ACT No. III OF 1858.

Received the Governor General's assent on the 23rd January 1858.

An Act to amend the Law relating to the arrest and detention of State Prisoners.[a]

Preamble.

WHEREAS doubts have been entertained whether State prisoners confined under Regulation II. 1819 of the Madras Code, or Regulation XXV. 1827 of the Bombay Code, can be lawfully detained in any fortress, jail, or other place within the local limits of the jurisdiction of the Supreme Courts of Judicature at Madras and Bombay respectively; and it is expedient that such doubts be removed, and that the powers of the said Regulations and of Regulation III. 1818 of the Bengal Code be extended; It is enacted as follows:—

1. [*Repealed by Act No. XIV of* 1870.]

Regulations as to arrest and confinement of State prisoners in force within Presidency towns.

2. The provisions of Regulation III. 1818 of the Bengal Code, Regulation II. 1819 of the Madras Code, and Regulation XXV. 1827 of the Bombay Code as altered by section 1 of this Act, relating to the arrest and confinement of persons as State prisoners, shall be in force within the local limits of the jurisdiction of the Supreme Courts of Judicature at Calcutta, Madras, and Bombay respectively.[b]

Powers of Governors of Madras and Bombay as to custody of State prisoners.

3. All powers for the better custody of State prisoners which by virtue of Act XXXIV of 1850 are vested in the Governor General in Council, shall be possessed and may be exercised by the Governor in Council of Fort St. George and the Governor in Council of Bombay respectively for the better custody of State prisoners arrested within their respective presidencies.

Arrests, &c., made before the passing of this Act legalized.

4. Any person arrested as a State prisoner before the passing of this Act, or now confined as a State prisoner by the order or under the warrant of the Governor General in Council, or of the Governor in Council of Fort St. George, or of the Governor in Council of Bombay respectively, shall be deemed to have been lawfully arrested and to be lawfully confined.

Removal of State prisoners from one place of confinement to another.

5. The Governor General in Council may order the removal of any State prisoner, confined under the provisions of any of the said Regulations as amended and extended by this Act, from any fortress, jail, or place in which he may be confined within either of the said presidencies, to any other fortress, jail, or place of confinement within the territories in the possession and under the government of the East India Company.

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[a] Declared to apply to the whole of British India, except the Scheduled Districts, Act No. XV of 1874.

[b] See *Re Amir Khán*, 6 Beng. 450.

ACT No. XXXIV OF 1858.

Received the Governor General's assent on the 14*th September* 1858.

An Act to regulate proceedings in Lunacy in the Courts of Judicature established by Royal Charter.[a]

Preamble.

WHEREAS the several Courts of Judicature established by Royal Charters within the British territories in India are authorized and empowered by their respective Charters to appoint guardians and keepers of the persons and estates of lunatics, and to inquire into, hear, and determine questions of alleged lunacy by inspection of the person or by such other ways and means by which the truth may best be discovered and known; and whereas, according to the practice of the said Courts, questions of alleged lunacy are determined by inquisition taken before a jury, and it is expedient to lessen the cost and to alter the mode of enquiry into such questions, and also to empower the said Courts to make provision for the due management of the estates of lunatics;[b] It is enacted as follows:—

Court may order enquiry as to persons alleged to be insane.

1. It shall be lawful for any of the said Courts of Judicature, on such application as is hereinafter mentioned, to make an order directing an enquiry whether any person subject to the jurisdiction of the Court, who is alleged to be lunatic, is or is not of unsound mind and incapable of managing himself and his affairs.[c] The order may also contain directions for other enquiries concerning the nature of the property belonging to the alleged lunatic, the persons who are his relatives or next-of-kin, the time during which he has been of unsound mind, or such other matters as to the Court shall seem proper.

Order may direct enquiry concerning property, &c., of lunatic.

Application by whom to be made.

2. Application for such enquiry may be made by any persons related by blood or marriage to the alleged lunatic, or by the Advocate General.

Ordinarily, enquiry to be by the Court. Enquiry by Judge in chambers.

3. The order made by the Court upon such application shall direct the enquiry to be by the Court itself. It shall nevertheless be lawful for the Court, if it see sufficient cause for so doing, to direct the enquiry to be executed in chambers before a single Judge of the Court.

Notice of enquiry to be given to lunatic.

Service of notice.

Reasonable notice of the time and place appointed for the enquiry shall be given to the alleged lunatic. If it shall appear that the alleged lunatic is in such a state that personal service on him would be ineffectual, the Court may direct such substituted service of the notice as it shall think proper. The Court may also, if it think fit, direct a copy of such notice to be served upon any person related by blood or marriage to the alleged lunatic.

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[a] Founded, to some extent, on 16 & 17 Vic., c. 70 (the Lunacy Regulation Act, 1853).

[b] See Bengal Act No. IV of 1870, s. 25.

[c] *Re Arathoon*, 2 Boulu. 74: *Ridgeway* v. *Darwin*, 8 Ves. 65.

Lunatic may demand enquiry before full Court.

If the enquiry be directed to be executed before a single Judge, it shall be lawful for the alleged lunatic, at any time before the day fixed for the enquiry, to demand an enquiry before the full Court. In such case the enquiry shall be by the Court, and a further day shall be appointed for making such enquiry; and in such case the Court may direct such further notices (if any) to be given, as it may think requisite.

Power to require attendance of lunatic for the purpose of being personally examined.

4. The Court may, at any time after the application, require the alleged lunatic to attend at such convenient time and place, within twenty miles of the place of residence of the said lunatic, as it may appoint for the purpose of being personally examined by the Court or by any person from whom the Court may desire to have a report of the mental capacity and condition of such alleged lunatic.

Power to authorize persons to have access to lunatic.

5. The Court may likewise, at any time after the application for such enquiry, make an order authorizing any person or persons to be therein named, to have access to the alleged lunatic for the purpose of a personal examination.

Rules respecting attendance and examination where lunatic is a woman of rank.

6. The attendance and examination of the alleged lunatic under the provisions of the two last preceding sections, shall, if the alleged lunatic be a woman who, according to the custom and manners of the country, ought not to be compelled to appear in public, be regulated by the rules in force for the examination of such persons in other cases.

Powers of Judge executing the enquiry.

7. If the enquiry is made by a Judge of the Court, the Judge executing the enquiry shall, while so employed, have power (subject to the provisions of the last preceding section) personally to examine the alleged lunatic and take such evidence, on oath or otherwise, and call for such information as he may think fit or the said Court may direct in order to ascertain whether the alleged lunatic is or is not of unsound mind, and shall have the like powers and authority as are or may be vested by law in a Judge or Master of the said Court[a] for the investigation of matters referred to them by the Court.

Judge to report.

The Judge shall report to the Court the result of the enquiry.

Power to direct enquiry by principal civil Court of original jurisdiction within whose local jurisdiction lunatic may be.

8. If the alleged lunatic be not within the local limits of the jurisdiction of the Court, and the enquiry cannot conveniently be made in either of the modes hereinbefore provided, the Court may direct the enquiry to be made before any principal Court of original jurisdiction in civil cases within whose local jurisdiction the alleged lunatic may be; and such last mentioned Court shall accordingly proceed to make such enquiry in the same manner as if the alleged lunatic were subject to its jurisdiction, and shall certify its finding upon the matters of enquiry to the Court directing the enquiry.

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[a] See Act No. XVIII of 1863, s. 5.

The evidence taken upon the enquiry shall be recorded by the Court in the English language in the form of a narrative, and a copy thereof, certified by the Court, shall be transmitted, together with any remarks the Court may think fit to make thereon, to the Court by which the enquiry was directed.

Power to amend report of Judge or finding of Court.

9. If the report of the Judge or the finding of a Court under the last preceding section appear to the Court directing the enquiry to be defective or insufficient in point of form, it shall be lawful for such last mentioned Court either to amend the same, or to refer it back to the Judge or the Court which made the enquiry to be amended.

Court may direct new trial.

10. It shall be lawful for the Court, on the application of the person at whose instance the order directing an enquiry was made or on the application of the alleged lunatic or of any of his relatives authorized by the Court to make the application, to direct a new trial of the matters of enquiry according to the usual course and practice of the Court in directing new trials in civil cases. If such application be granted in a case tried by a single Judge, the order granting the same shall direct the enquiry to be made by the full Court. If the application be granted in a case tried under section 8, the Court directing the new trial may give such directions regarding the same as it shall see fit.

Costs of enquiry.

11. The Court shall make such order as may appear just respecting the costs of any enquiry under this Act, and may include therein such remuneration to physicians and surgeons as the Court, having regard to the nature of the enquiry, shall deem reasonable.

Finding of Court or report by Judge to be proceeded on, in regard to appointment of committees, as an inquisition.

12. If no new trial be directed, the finding of the Court to which the application for enquiry was made, if the enquiry have been made by such Court, or the report of the Judge, or the finding of the Court to which the enquiry may have been referred under the provisions of section 8, as the case may be, shall be of the same force and effect, and be proceeded on in the same manner in regard to the appointment of committees of the person and estate of the lunatic, as the inquisition now according to practice taken upon the oath of a jury.

On appointment of committee, the Court may give certain powers for management of lunatic's estate.

13. It shall be lawful for the Court, on the appointment of committees of the person and estate of a lunatic, to direct by the order of appointment, or by any subsequent order, that the person to whom the charge of the estate is committed, shall have such powers for the management thereof as to the Court shall seem necessary and proper, reference being had to the nature of the property, whether moveable or immoveable, of which the estate may consist. But such powers shall not extend to the sale or charge by way of mortgage of the estate or any part thereof, or to the letting of any immoveable property unless for a term not exceeding three years.

Master to receive proposals concerning management, sale, &c., of estate, without an order of reference.

14. The Master of the Court[a] shall be at liberty, without an order of reference, to receive any proposal and conduct any enquiry respecting the management of the estate of a lunatic, if such proposal relate to any matter which the committee of the estate has not been empowered by an order under the last preceding section to dispose of. The Master may likewise, without reference, receive and enquire into any proposal relating to the sale or charge by way of mortgage of the estate or of any part thereof, or to the letting of any immoveable property for a term exceeding three years.

Court to make order upon the report of the Master.

15. The Master shall report to the Court on the proposal; and the Court shall, subject to the provisions of this Act, make such order upon the report and respecting the costs, as shall, under the circumstances, seem just.

Master to determine what relatives to attend proceedings, and appoint guardian of infant relative.

16. The Court or the Master shall once in the matter of each lunacy, and may afterwards from time to time, determine whether any one or more and (if any) how many and which of the relatives or next-of-kin shall attend before the Master, at the cost of the estate, in any proceeding connected with the management thereof; and, if any such relative or next-of-kin is an infant, may from time to time appoint a fit person to be his guardian for the purposes of the lunacy.

Court may make orders concerning matters connected with lunacy.

17. The Court may, on application made to it by petition concerning any matter whatsoever connected with the lunacy, make such order, subject to the provisions of this Act, respecting the application and the costs thereof, and of the consequent proceedings, as shall, under the circumstances, seem just.

Lunatic's property may be sold for debts, maintenance, &c.

18. The Court may, if it appears to be just, or for the lunatic's benefit, order that any property, moveable or immoveable, of the lunatic, and whether in possession, reversion, remainder, contingency, or expectancy, be sold or charged by way of mortgage or otherwise disposed of, as may seem most expedient for the purpose of raising money to be applied for any of the following purposes:—

1. The payment of the lunatic's debts, including any debt incurred for his maintenance or otherwise for his benefit:

2. The discharge of any incumbrance on his estate:

3. The payment of or provision for the expenses of his future maintenance and the maintenance of his family, including the expenses of his removal to Europe, when he shall be so removed, and all expenses incidental thereto:

4. The payment of the costs of any enquiry under this Act, and of any costs incurred by order or under the authority of the Court.

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[a] See sec. 31 *infra*, and Act No. XVIII of 1863, s 5.

19. The committee of the lunatic's estate shall, in the name and on behalf of the lunatic, execute all such conveyances and instruments of transfer relative to any sale, mortgage, or other disposition of his estate as the Court shall order. In like manner such committee shall, under the order of the Court, exercise all powers whatsoever vested in a lunatic, whether the same are vested in him for his own benefit or in the character of trustee or guardian.

Committee to execute conveyances.

To execute powers.

20. Where a person, having contracted to sell or otherwise dispose of his estate or any part thereof, afterwards becomes lunatic, the Court may, if the contract is such as the Court thinks ought to be performed, direct the committee of the estate to execute such conveyances and to do such other acts in fulfilment of the contract as it shall think proper.

Court may order performance of contract.

21. If a member of a partnership firm be found lunatic, the Court may, on the application of the other partners, or of any person who appears to the Court to be entitled to require the same, dissolve the partnership; and thereupon, or upon a dissolution by decree of Court or otherwise by due course of law, the committee of the estate may, in the name and on behalf of the lunatic, join with the other partners in disposing of the partnership property upon such terms, and shall do all such acts for carrying into effect the dissolution of the partnership, as the Court shall think proper.

Partner found lunatic.

22. Where a lunatic has been engaged in business, the Court may, if it appear to be for the lunatic's benefit that the business premises should be disposed of, order the committee of the estate to sell and dispose of the same; and the monies arising from such sale shall be applied in such manner as the Court shall direct.

Disposal of business premises.

23. Where a lunatic is entitled to a lease or under-lease, and it appears to be for the benefit of his estate that it should be disposed of, the committee of the estate may, by order of the Court, surrender, assign, or otherwise dispose of the same to such person for such valuable or nominal consideration, and upon such terms as the Court shall think fit.

Committee may dispose of lease.

24. If a lunatic is possessed of any landed property situate beyond the local limits of the jurisdiction of the Court, which, by the law in force in the presidency wherein such land is situated, subjects the proprietor, if disqualified, to the superintendence of the Court of Wards, the said Court of Wards may assume the charge of such landed property and manage the same according to the rules for the time being in force for such management.

When Court of Wards may assume charge of lunatic's land.

Provided that, in such case, no further proceedings in respect of the lunacy shall be taken under any such law, nor shall it be competent to the Court of Wards or to any collector to appoint a guardian of the person of the said

Proviso.

lunatic or a manager of the estate except of the landed property which so subjects the proprietor as aforesaid.

Disposal of surplus income of land.

Provided also that the surplus of the income of such landed property, after providing for the discharge of the Government revenue and expenses of management, shall be disposed of from time to time in such manner as the Supreme Court shall direct, and not otherwise.

This section not to affect certain powers given to Supreme Court by ss. 18, 19, 20.

Provided further that nothing contained in this section shall affect the powers given to the Supreme Court by sections 18, 19, and 20 of this Act or (except so far as relates to the management of the said landed property which so subjects the proprietor as aforesaid) the powers given by any other section of this Act.

Stock transferable in India, belonging to lunatic, may be ordered to be transferred.

25. Where any stock or Government securities or any share in a Company (transferable within the said territories or the dividends of which are payable there) is standing in the name of, or is vested in a lunatic, beneficially entitled thereto, or in a committee of the estate of a lunatic, or in a trustee for him, and the committee dies intestate, or himself becomes lunatic, or is out of the jurisdiction of the Court, or it is uncertain whether the committee be living or dead, or he neglects or refuses to transfer the stock, securities, or shares, or to receive and pay the dividends to a new committee or as he directs, within fourteen days after being required by him to do so, then the Court may order some fit person to make such transfer, or to transfer the same, and to receive and pay over the dividends in such manner as the Court may direct, and such transfer or payment shall be valid and effectual for all purposes.

Stock of lunatic, residing out of India, and not within the United Kingdom, may be ordered to be transferred.

26. Where any such stock or Government securities or share in a company is standing in the name of, or vested in any person residing out of the said territories, and not in any part of the United Kingdom, the Court, upon being satisfied that such person has been declared of unsound mind, and that his personal estate has been vested in a curator or manager, according to the laws of the place where he is residing, may order some fit person to make such transfer of the stock, securities, or shares, or of any part thereof, to such curator or manager or otherwise, and also to receive and pay over the dividends and proceeds, as the Court may think fit; and any act done in pursuance of such order shall be valid and effectual for all purposes.

Power to apply property for lunatic's maintenance without appointing committee.

27. If it appears to the Court, having regard to the situation and condition in life of the lunatic and his family and the other circumstances of the case, to be expedient that his property should be made available for his or their maintenance in a direct and inexpensive manner, it may, instead of appointing a committee of the estate, order that the property if money or if of any other

description the produce thereof, when realized, be paid to such person as the Court may think fit, to be applied for the purpose aforesaid; and all payments so made shall be a good discharge to the person making the same.

Like power in case of temporary lunacy.

28. If it appears to the Court that the unsoundness of mind of a lunatic is in its nature temporary, and that it is expedient to make temporary provision for his maintenance or for the maintenance of his family, the Court may, in like manner as under the last preceding section, direct his property or a sufficient part of it to be applied for the purpose aforesaid.

Proceedings in lunacy to cease or be set aside if Court find that the unsoundness of mind has ceased.

29. When any person has been found of unsound mind, and it shall be shown to the Court, either on the application of such person or of any other person acting on his behalf or on the information of any other person, that there is reason to believe that such unsoundness of mind has ceased, the Court may make an order for enquiry whether such person is or is not still of unsound mind and incapable of managing himself and his affairs.

The enquiry shall be conducted in the same manner and subject to the same rules as are hereinbefore prescribed for an enquiry into the unsoundness of mind of an alleged lunatic; and if it be found that the unsoundness of mind has ceased, the Court shall order all proceedings in the matter of the lunacy to cease or to be set aside on such terms and conditions as under the circumstances of the case shall appear proper.

Power to make general orders.

30. The Court may, from time to time, make such orders, not inconsistent with the provisions of this Act, as shall seem meet for carrying into effect the purposes of this Act, and for regulating the mode of proceeding before the Court, or before a Judge of the Court, or the Master, in matters of lunacy.

Powers of Master exerciseable by Judge.

31. Every power given by this Act to the Master of any of the said Courts may also be exercised by a Judge of any of the said Courts.

Interpretation-clause.

32. Unless the contrary appears from the context, the word "lunatic," as used in this Act, shall mean any person found by due course of law to be of unsound mind and incapable of managing his affairs. Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular. Words importing the masculine gender shall include females.

ACT No. XXXV OF 1858.

Received the Governor General's assent on the 14*th September* 1858.

An Act to make better provision for the care of the Estates of Lunatics not subject to the jurisdiction of the Supreme Courts of Judicature.[a]

Preamble.

WHEREAS it is expedient to make better provision for the care of the estates of lunatics not subject to the jurisdiction of the Supreme Courts of Judicature; and to prescribe general rules by which the state of mind of persons not subject to such jurisdiction, who are alleged to be lunatic, may be enquired into and ascertained; It is enacted as follows :—

1. [*Repealed by Act No. XIV of* 1870].

Power to institute enquiry when possessor of property is alleged to be lunatic.

2. Whenever any person not subject to the jurisdiction of the Supreme Courts, who is possessed of property, is alleged to be a lunatic, the civil Court, within whose jurisdiction such person is residing,[b] may, upon such application as is hereinafter mentioned, institute an enquiry for the purpose of ascertaining whether such person is or is not of unsound mind and incapable of managing his affairs.

Who may apply for enquiry.

3. Application for such enquiry[c] may be made by any relative of the alleged lunatic or by any public curator appointed under Act XIX of 1841, or by the Government pleader, or if the property of the alleged lunatic consist in whole or in part of land or any interest in land, by the collector of the district in which it is situate.

If the property or any part thereof be of such a description as by the law in force in any presidency where such property is situate would subject the proprietor, if disqualified, to the superintendence of the Court of Wards, the application may be made by the collector on behalf of the Court of Wards.

Notice of enquiry to be given to lunatic.

Service of notice.

4. When the civil Court is about to institute any such enquiry as aforesaid, it shall cause notice to be given to the alleged lunatic of the time and place at which it is proposed to hold the enquiry. If it shall appear that the alleged lunatic is in such a state that personal service on him would be ineffectual, the Court may direct such substituted service of the notice as it shall think proper. The Court may also direct a copy of such notice to be served upon any relative of the alleged lunatic.

Power to require attendance of lunatic.

5. The civil Court may require the alleged lunatic to attend at such convenient time and place as it may appoint for the purpose of being personally

[a] Declared to apply to the whole of British India, except the Scheduled Districts, Act No. XV of 1874.

[b] 2 Beng, A. C. J, 246

[c] The application must be verified, 7 Suth. W. R., C. R, 267

examined by the Court or by any person from whom the Court may desire to have a report of the mental capacity and condition of such alleged lunatic.[a]

The Court may likewise make an order authorising any person or persons therein named to have access to the alleged lunatic for the purpose of a personal examination.

Power to authorize access to lunatic.

6. The attendance and examination of the alleged lunatic under the provisions of the last preceding section shall, if the alleged lunatic be a woman who, according to the manners and customs of the country, ought not to be compelled to appear in public, be regulated by the rules in force for the examination of such persons in other cases.

Rules respecting attendance and examination where lunatic is a woman of rank.

7. The civil Court, if it think fit, may appoint two or more persons to act as assessors to the Court in the said enquiry.

Appointment of assessors.

Upon the completion of the enquiry, the Court shall determine whether the alleged lunatic is or is not of unsound mind, and may make such order as to the payment of the costs of the enquiry by the person upon whose application it was made, or out of the estate of the alleged lunatic if he be adjudged to be of unsound mind, or otherwise, as it may think proper.

Order of Court.

8. If the alleged lunatic reside at a distance of more than fifty miles from the place where the civil Court to which the application shall have been made is held, the said Court may issue a commission to any subordinate Court, to make the enquiry, and thereupon the said subordinate Court shall conduct the enquiry in the manner hereinbefore provided.

Issue of commission to subordinate Court.

On the completion of the enquiry the subordinate Court shall report its proceedings with the opinions of the assessors, if assessors have been appointed, and its own opinion on the case; and thereupon the civil Court shall make such order in the case as it may think proper.[b]

Report of subordinate Court.

Order of civil Court.

9. When a person has been adjudged to be of unsound mind and incapable of managing his affairs, if the estate of such person or any part thereof consist of property which by the law in force in any presidency subjects the proprietor, if disqualified, to the superintendence of the Court of Wards, the Court of Wards shall be authorized to take charge of the same.

Management of lunatic's estate, if consisting of property subject to Court of Wards.

In all other cases, except as otherwise hereinafter provided, the civil Court shall appoint a manager of the estate. Any near relative of the lunatic, or the public curator, or, if there be no public curator, any other suitable person, may be appointed manager.[c]

Manager in other cases.

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[a] See 7 Suth. W. R., C. R., 246.

[b] The Act contemplates only the question of lunacy or sanity at the time of the inquiry. There is no provision that the inquiry shall extend to the ascertainment of the period at which the alleged lunatic first became of unsound mind, *Ajodhya Prasad Singh* v. *Umrao Singh*, 6 Beng. 509, 517.

[c] See 4 Beng., Appendix, 24.

Appointment of guardian by civil Court.

10. Whenever a manager of the estate of a lunatic is appointed by the civil Court, the Court shall appoint a fit person to be guardian of the person of the lunatic. The manager, unless he be the public curator, may be appointed guardian. Provided always that the legal heir of the lunatic shall not in any case be appointed guardian of his person.

Charge of lunatic's estate if consisting of land not subject to Court of Wards.

11. If the estate consist in whole or in part of land or any interest in land not subject to the jurisdiction of the Court of Wards, the civil Court, instead of appointing a manager, may direct the collector to take charge of the estate, and thereupon the collector shall appoint a manager of the property and a guardian of the person of the lunatic.

Control of collector's proceedings.

All the proceedings of the collector in the charge of estates under this Act shall be subject to the control of the superior revenue authorities.

Remuneration of managers and guardians.

12. If the person appointed to be manager of the estate of a lunatic, or the person appointed to be guardian of a lunatic's person, shall be unwilling to discharge the trust gratuitously, the Court or the collector, as the case may be, may fix such allowance or allowances to be paid out of the estate of the lunatic as, under the circumstances of the case, may be thought suitable.

Duties of guardian.

13. The person appointed to be guardian of a lunatic's person shall have the care of his person and maintenance. When a distinct guardian is appointed, the manager shall pay to the guardian such allowance as shall be fixed by the Court or the collector, as the case may be, for the maintenance of the lunatic and of his family.

Powers of managers.

14. Every manager of the estate of a lunatic appointed as aforesaid may exercise the same powers in the management of the estate as might have been exercised by the proprietor if not a lunatic: and may collect and pay all just claims, debts, and liabilities due to or by the estate of the lunatic. But no such manager shall have power to sell or mortgage the estate or any part thereof, or to grant a lease of any immoveable property for any period exceeding five years, without an order of the civil Court previously obtained.

Managers to furnish inventory and annual accounts.

15. Every person appointed by the civil Court or by the collector to be manager of the estate of a lunatic shall, within six months from the date of his appointment, deliver in Court or to the collector, as the case may be, an inventory of the landed property belonging to the lunatic and of all such sums of money, goods, and effects, as he shall receive on account of the estate, together with a statement of all debts due by or to the same. And every such manager shall furnish to the Court or to the collector annually, within three months of the close of the year of the era current in the district, an account of the property in his charge, exhibiting the sums received and disbursed on account of the estate and the balance remaining in his hands.

If any relative of the lunatic, or any public officer, by petition to the Court, shall impugn the accuracy of the said inventory and statement, or of any annual account, the Court may summon the manager and enquire summarily into the matter and make such order thereon as it shall think proper; or the Court, at its discretion, may refer any such petition to any subordinate Court or to the collector if the manager was appointed by the collector.

Proceeding if accuracy of inventory or accounts be impugned.

16. All sums received by a manager on account of any estate in excess of what may be required for the current expenses of the lunatic or of the estate, shall be paid into the public treasury on account of the estate and may be invested from time to time in the public securities.

Manager to pay proceeds of estates into the public treasury.

17. It shall be lawful for any relative of a lunatic to sue for an account from any manager appointed under this Act, or from any such person after his removal from office or trust, or from his personal representative in case of his death, in respect of any estate then or formerly under his care or management, or of any sums of money or other property received by him on account of such estate.

Relative may sue for an account.

18. The civil Court, for any sufficient cause, may remove any manager appointed by the Court, not being a public curator, and may appoint such curator or any other fit person in his room, and may compel the person so removed to make over the property in his hands to his successor, and to account to such successor for all monies received or disbursed by him. The Court may also, for any sufficient cause, remove any guardian appointed by the Court.

Removal of manager or guardian by civil Court.

In like manner the collector, for any sufficient cause, may remove any manager or guardian appointed by the collector; and the Court, on the application of the collector, shall compel any manager so removed to deliver his accounts and the property in his hands.

Removal by collector.

19. The civil Court may impose a fine not exceeding five hundred rupees on any manager of the estate of a lunatic who wilfully neglects or refuses to deliver his accounts or any property in his hands within the prescribed time or a time fixed by the Court, and may realize such fine by attachment and sale of his property under the rules in force for the execution of decrees of Court, and may also commit the recusant to close custody until he shall deliver such accounts or property.

Manager refusing to furnish accounts, may be fined by the Court, &c.

20. If it appears to the civil Court, having regard to the situation and condition in life of the lunatic and his family, and the amount and description of his property, to be unnecessary to appoint a manager of the estate as hereinbefore provided, the Court may, instead of appointing such manager, order that the property if money or if of any other description the produce thereof, when realized, be paid to such person as the Court may think fit, to be applied for the maintenance of the lunatic and his family.

When Court may apply property for lunatic's maintenance without appointing manager.

Court may institute enquiry to ascertain whether a person has ceased to be of unsound mind.

21 When any person has been adjudged to be of unsound mind and incapable of managing his affairs, if such person or any other person acting on his behalf or having or claiming any interest in respect of his estate, shall represent by petition to the civil Court, or if the Court shall be informed in any other manner, that the unsoundness of mind of such person has ceased, the Court may institute an enquiry for the purpose of ascertaining whether such person is or is not still of unsound mind and incapable of managing his affairs.

And may order estate to be restored.

The enquiry shall be conducted in the manner provided in section 4 and the four following sections of this Act; and if it be adjudged that such person has ceased to be of unsound mind and incapable of managing his affairs, the Court shall make an order for his estate to be delivered over to him, and such order shall be final.

Orders appealable.

22. Except as otherwise herein provided, all orders made by a civil Court or by any subordinate Court under this Act, shall be open to appeal under the rules in force for appeals in miscellaneous cases.

Interpretation-clause.

23. The word "Lunatic," as used in this Act, unless the contrary appears from the context, shall mean every person found by due course of law to be of unsound mind and incapable of managing his affairs. The expression "Civil Court" shall mean the principal Court of original jurisdiction in the district. Words importing the masculine gender shall include females.

ACT No. XXXVI OF 1858.

Received the Governor General's assent on the 14th September 1858.

An Act relating to Lunatic Asylums.[a]

Preamble.

WHEREAS it is expedient to provide for the reception and detention of lunatics in asylums established for that purpose; It is enacted as follows:—

Lunatic asylums may be established by Government,

1. The Executive Government of any presidency or place, with the sanction of the Governor General of India in Council, may establish asylums for the reception and detention of lunatics at such places within the limits of the said Government as may be deemed proper.

or may be licensed.

Any such Executive Government may also, if it think fit, grant licenses to any private persons for the establishment of such asylums within the said limits, and may withdraw such licenses.

Management of asylums.

2. The management of every lunatic asylum and the care and custody of its inmates shall be regulated according to such rules as shall from time to time be sanctioned by the Executive Government.

Appointment of visitors.

The Executive Government shall appoint for every asylum not less than three visitors, one of whom at least shall be a medical officer. The inspector

[a] Declared to extend to the whole of British India, except the Scheduled Districts, Act No. XV of 1874. Founded, to some extent, on 16 & 17 Vic., c. 96.

of jails (where such office exists) shall be a visitor *ex officio* of all the asylums within the circle of his inspection.

Monthly inspection by visitors.

3. Two or more of the visitors, one of whom shall be a medical officer, shall, once at the least in every month, together inspect every part of the asylum or asylums of which they are visitors, and see and examine, as far as circumstances will permit, every lunatic therein, and the order and certificate for the admission of every lunatic admitted since the last visitation of the visitors; and shall enter in a book to be kept for that purpose any remarks which they may deem proper in regard to the management and condition of the asylum and the lunatics therein.

Wandering and dangerous lunatics to be sent to the Magistrate.

4. It shall be the duty of every darogah or district police officer to apprehend and send to the Magistrate all persons found wandering at large within his district who are deemed to be lunatics, and all persons believed to be dangerous by reason of lunacy.

Certificate and order for reception in asylum.

Whenever any such person as aforesaid is brought before a Magistrate, the Magistrate, with the assistance of a medical officer, shall examine such person, and if the medical officer shall sign a certificate in the form A in the schedule to this Act, and the Magistrate shall be satisfied on personal examination or other proof that such person is a lunatic and a proper person to be detained under care and treatment, he shall make an order for such lunatic to be received into the asylum established for the division in which the Magistrate's jurisdiction is situate, or, if such lunatic is not a native of the country and the circumstances of the case so require, into a lunatic asylum at the presidency; and shall send the lunatic in suitable custody to the asylum mentioned in such order.

When lunatic may be committed to the care of his friends or relatives,

Provided that, if any friend or relative of any lunatic, who is believed to be dangerous, shall undertake in writing to the satisfaction of the Magistrate, that such lunatic shall be properly taken care of, and shall be prevented from doing injury to himself or others, the Magistrate, instead of sending him to an asylum, may make him over to the care of such friend or relative.

or sent to licensed asylum.

Provided also that, if any such friend or relative shall desire that the lunatic may be sent to a licensed asylum instead of the public asylum of the division, and shall engage in writing to the satisfaction of the Magistrate to pay the expenses which may be incurred for the lodging, maintenance, medicine, clothing and care of the lunatic in such asylum, the Magistrate may send the lunatic to the licensed asylum mentioned in the engagement.

In case of neglect or cruel treatment, Magistrate may order person

5. If it shall appear to the Magistrate, on the report of a police officer or the information of any other person, that any person within the limits of his jurisdiction deemed to be a lunatic is not under proper care and control, or is cruelly treated or neglected by any relative or other person having the

bound to maintain lunatic, to provide for his proper treatment.

charge of him, the Magistrate may send for the supposed lunatic, and summon such relative or other person as has or ought to have the charge of him; and if such relative or other person be legally bound to maintain the supposed lunatic, the Magistrate may make an order for such lunatic being properly cared for and treated, and, if such relative or other person shall wilfully neglect to comply with the said order, may commit him to jail for a period not exceeding one month.

If no person bound to maintain him, Magistrate may make an order for his reception in asylum.

If there be no person legally bound to maintain the supposed lunatic, or if the Magistrate think fit so to do, he may proceed as prescribed in the last preceding section, and upon being satisfied in manner aforesaid that the person deemed to be a lunatic is a lunatic and a proper person to be detained under care and treatment, may make an order for his reception into such asylum as aforesaid.

Darogah to report neglect.

It shall be the duty of every darogah or district police officer to report to the Magistrate every such case of neglect or cruel treatment as aforesaid which may come to his knowledge.

Commissioner of Police, &c., to act in the presidency towns.

6. All acts which the Magistrate is authorized or required to do by the two last preceding sections, may be done in the presidency towns by the Commissioner of Police; and all duties which a darogah or district police officer is authorized or required to perform, may be performed in any of the said towns by an officer of the police force not below the rank of inspector.

Order and certificate for reception into presidency asylum.

7. Except as otherwise hereinbefore provided, no person shall be received into a lunatic asylum in any presidency town without an order under the hand of some person in the form B in the schedule to this Act, together with such statement of particulars as is contained in the said form B; nor unless such person has been found lunatic by inquisition or under an enquiry directed by an order of one of the Courts of Judicature established by Royal Charter, without the medical certificate containing the particulars in form A in the schedule to this Act, of two persons each of whom shall be a physician or surgeon and one of whom shall be a presidency surgeon or a surgeon in the employment of the Government.

When such order is presented, the visitors or manager of the asylum, before admitting the lunatic into the asylum, may require the friends of the said lunatic to engage to pay the expenses which may be incurred for the lodging, maintenance, clothing, medicine, and care of the lunatic, unless it shall appear to the said visitors that they have not sufficient means of doing so.

Reception in Mofussil asylum.

8. *Clause* 1.—In places other than those specified in the last preceding section, no person shall be received into a lunatic asylum, except as otherwise hereinbefore provided, without an order of the civil Court.

Clause 2.—When any person has been adjudged to be a lunatic, and a guardian for such lunatic has been appointed by the Court of Wards or the collector or by the civil Court, if such guardian shall desire that the lunatic be admitted into a lunatic asylum, he shall make application to the civil Court, and the Judge, with the assistance of a medical officer, shall examine such lunatic, and if the medical officer shall sign a certificate in the form A in the schedule to this Act, and the Judge shall be satisfied that the lunatic is a proper person to be detained under care and treatment in a lunatic asylum, he shall make an order for such person to be received into the asylum established for the division in which his jurisdiction is situate, or, if he think fit, into any licensed asylum mentioned in the application.

Application for order to be made by guardian, if guardian appointed.

Clause 3.—If any relative or friend of any person for whom a guardian has not been appointed by the Court of Wards or the collector or by the civil Court, desires that such person may be admitted into a lunatic asylum, he may make application to the civil Court, and the Judge, if he see sufficient reason for so doing, shall enquire into the fact of lunacy in the same manner as if an application had been made to the civil Court under the provisions of section 3 of Act XXXV of 1858, entitled "*An Act to make better provision for the care of the estates of Lunatics not subject to the jurisdiction of the Supreme Courts of Judicature;*" and if the lunacy be established, the Judge may then proceed in the manner prescribed in the second clause of this section.

Application where no guardian appointed.

Clause 4.—Whenever the Judge shall make an order for the reception of any person into a lunatic asylum, he shall, at the same time, make an order for the payment of the expenses to be incurred for the lodging, maintenance, clothing, medicine, and care of such person; and such expenses shall be recovered by the Judge on the application of the visitors or manager of such asylum. Provided however that, if it shall appear to the satisfaction of the Judge that the lunatic has not sufficient property and that no person legally bound to maintain the said lunatic has sufficient means for the payment of such expenses, he shall certify the same in the order for the reception of the lunatic into the asylum, instead of making such order for the payment of expenses as aforesaid.

Order for payment of expenses.

Proviso.

9. It shall be lawful for three of the visitors of any asylum, of whom one shall be a medical officer, by writing under their hands, to order the discharge of any person detained in such asylum. When such order is given, if the person is detained under the order of any public officer, notice of the order of discharge shall be immediately communicated to such officer.[a]

Order of discharge from asylum.

[a] See Act No. V of 1871, sec. 31.

Order of discharge on undertaking of relative for due treatment of the lunatic.

10. When any relative or friend of a lunatic detained in any asylum under the provisions of section 4, section 5, or section 6 of this Act, is desirous that such lunatic shall be delivered over to his care and custody, he shall make application to the Magistrate or Commissioner of Police under whose order the lunatic is detained, and the Magistrate or Commissioner of Police, if he think fit, after communication with the visitors or with one of them being a medical officer, and upon the undertaking in writing of such relative or friend to the satisfaction of the said Magistrate or Commissioner that such lunatic shall be properly taken care of and shall be prevented from doing injury to himself or others, shall make an order for the discharge of such lunatic, and such lunatic shall thereupon be discharged.

Inspector of jails may order removal from one public asylum to another.

11. The inspector of jails may direct the removal of any lunatic from any public asylum to any other public asylum within the circle of his inspection, and such order shall be sufficient authority for the removal of such lunatic, and also for his reception into the asylum to which he is ordered to be removed.

Amendment of order or certificate.

12. If, after the reception of any lunatic into any asylum, it appear that the order or the medical certificate or certificates upon which he was received is or are defective or incorrect, the same may at any time afterwards be amended by the person or persons signing the same with the sanction of two or more of the visitors of the said asylum, one of whom shall be a medical officer.

Order and certificate to justify detention and recapture after escape.

13. Every person received into a lunatic asylum under any such order as is required by this Act, accompanied by the requisite medical certificate, may be detained therein until he be removed or discharged as authorized by this Act, and in case of escape may, by virtue of such order, be re-taken by the manager of such asylum, or any officer or servant belonging thereto, or any other person authorized in that behalf by the said manager, or any police officer, and conveyed to and received and detained in such asylum.

Government when to pay for lunatic's maintenance.

14. When any lunatic is sent to a licensed asylum by order of a Magistrate or Commissioner of Police under section 4, section 5, or section 6 of this Act, and when a lunatic is admitted into such asylum under section 7, or an order for the reception of a lunatic is made under section 8, and no engagement has been taken from the friends of the lunatic or order made by the Judge for the payment of expenses under the said section 7 or section 8 respectively, the expense of the lodging, maintenance, clothing, medicine, and care of such lunatic shall be paid by the Government to the manager of such asylum.

Order for payment of cost of lunatic's maintenance.

15. The Magistrate or Commissioner of Police by whom any lunatic has been sent to a lunatic asylum, if it appear to such Magistrate or Commissioner that such lunatic has an estate applicable to his maintenance and more than

sufficient to maintain his family, or that any person is legally bound to maintain and has the means of maintaining such lunatic, may apply to the chief civil Court of original jurisdiction within the local jurisdiction of which the estate of the lunatic may be situate or the person legally bound to maintain him may reside, and such Court shall enquire into the matter in a summary way, and on being satisfied that such lunatic has an estate applicable to his maintenance, or that any person is legally bound to maintain and has the means of maintaining such lunatic, shall make an order for the recovery of the charges of the lodging, maintenance, clothing, medicine, and care of such lunatic out of such estate or from such person.

Enforcement, &c., of order.

Such order shall be enforced in the same manner, and shall be of the same force and effect and subject to the same appeal as any judgment or order made by the said Court in a regular suit in respect of the property or person therein mentioned.

Property in possession of vagrant lunatic.

Any personal property which may be in the possession of a lunatic found wandering at large may be sold by the Magistrate and the proceeds thereof (or such part of the same as may be necessary) applied towards the payment of the charges of the lodging and maintenance of the lunatic, and of any other expenses incurred on his behalf.

Relatives' liability to maintain lunatic.

The liability of any relative or person to maintain any lunatic shall not be taken away or affected by any provision contained in this Act.

Saving of powers of Supreme Courts.

17. Nothing contained in this Act shall be taken to interfere with the power of any of the Courts of Judicature established by Royal Charter over any person found to be lunatic by inquisition or under the provisions of Act XXXIV of 1858 entitled "*An Act to regulate proceedings in Lunacy in the Courts of Judicature established by Royal Charter,*" or with the rights of any committee of the person or estate of such lunatic.

Interpretation-clause.

18. The word "Lunatic," as used in this Act, shall mean and include every person of unsound mind, and every person being an idiot.

The word "Magistrate" shall include a person exercising the powers of a Magistrate.

SCHEDULE.[a]

FORM A.

CERTIFICATE OF MEDICAL OFFICER.—(*see sections* 4 *and* 8).

I, the undersigned, (*here enter name and official designation,*) hereby certify that I, on the day of at personally examined

[a] As to the necessity of strictly following the corresponding forms in the English Act, see *Reg.* v. *Pinder*, 24 L. J., Q. B., 148.

(here enter name and residence of lunatic), and that the said is a lunatic *(or* an idiot, *or* a person of unsound mind), and a proper person to be taken charge of, and detained under care and treatment, and that I have formed this opinion on the following grounds, namely :—

1. Facts indicating insanity observed by myself *(here state the facts)*.

2. Other facts (if any) indicating insanity communicated to me by others *(here state the information and from whom)*.

(Signed)

FORM B.

ORDER FOR THE RECEPTION OF A PRIVATE PATIENT.—*(see section 7)*.

I, the undersigned, hereby request you to receive *A. B.*, a lunatic, [*or* an idiot, *or* a person of unsound mind] as a patient into your asylum. Subjoined is a statement respecting the said *A. B.*

(Signed) name
Occupation (if any)
Place of abode
Degree of relationship (if any), or other circumstance of connexion with the patient.

Dated this day of one thousand eight hundred and

To
Superintendent of the Asylum at [*describing the asylum*].

STATEMENT.

[*If any of the particulars in this statement be not known, the fact to be so stated.*]

Name of patient, with Christian name at length.
Sex and age.
Married, single, or widowed.
Condition of life, and previous occupation (if any).
The religious persuasion, as far as known.
Previous place of abode.
Whether first attack.
Age (if known) on first attack.
When and where previously under care and treatment.
Duration of existing attack.

Supposed cause.

Whether subject to epilepsy.

Whether suicidal.

Whether dangerous to others.

Whether found lunatic by inquisition or enquiry under order of Court, and date of commission or order for inquisition or enquiry.

Whether any member of patient's family has been or is affected with insanity.

(Signed) Name.

[*Where the person signing the statement is not the person who signs the order, the following particulars concerning the person signing the statement are to be added; namely,*]

Occupation (if any).

Place of abode.

Degree of relationship (if any), or other circumstances of connexion with the patient.

Act No. I of 1859.[a]

Received the Governor General's assent on the 25th January 1859.

An Act for the amendment of the law relating to Merchant Seamen.

Preamble.

Whereas the law for the registry of seamen and the grant of register-tickets has been found to be ineffective for the purposes intended; and whereas by section 288 of an Act of the Imperial Parliament called "The Merchant Shipping Act, 1854," it is enacted that, "if the Governor General of India in Council, or the respective legislative authorities in any British possession abroad, by any Acts, Ordinances, or other appropriate legal means, apply or adapt any of the provisions in the third part of this Act contained to any British ships registered at, trading with, or being at any place within their respective jurisdictions, and to the owners, masters, mates and crews thereof, such provisions, when so applied and adapted as aforesaid,[b] and as long as they remain in force, shall in respect of the ships and persons to which the same are applied be enforced, and penalties and punishments for the breach thereof shall be recovered and inflicted throughout Her Majesty's dominions, in the

[a] Declared to extend to the whole of British India, except the Scheduled Districts, Act No. XV of 1874.

[b] Secs. 2—99 of Act No. I of 1859 correspond with secs. 122—287 of 17 & 18 Vic., c. 104.

same manner as if such provisions had been hereby so adapted and applied, and such penalties and punishments had been hereby expressly imposed." And whereas it is expedient to discontinue the practice of registry and the grant of register-tickets, and to apply to ships registered at, trading with, or being at any port or place in India, certain provisions of the third part of the said Act with such adaptations and modifications as are required, and for the purposes aforesaid to repeal the laws now in force in India relating to merchant-seamen: It is enacted as follows:—

1. [*Repealed by Act No. XIV of* 1870.]

SHIPPING OFFICES.

Shipping-offices.

2. A shipping-office shall be established at each of the ports of Calcutta, Madras, and Bombay, and at such other ports as the Governor General of India in Council shall hereafter deem necessary. For every such office there shall be a superintendent, to be called a "Shipping Master," with such necessary deputies, clerks, and servants, at such salaries, and subject to such regulations, as the Local Government[a] shall from time to time, with the sanction of the Governor General of India in Council, direct and appoint.

Every act done by or before any deputy duly appointed shall have the same effect as if done by or before a shipping-master.[b]

Appointment, &c., of shipping-masters and deputies.

3. The Local Government shall have power to appoint and remove such shipping-masters and deputies who shall respectively be subject to the control of that Government or of any intermediate authority which it may appoint.

Business of shipping-masters.

4. It shall be the general business of shipping-masters appointed under this Act to superintend and facilitate the engagement and discharge of seamen in manner hereinafter mentioned, to provide means for securing the presence on board at the proper times of men who are so engaged, and to perform such other duties relating to merchant-seamen and merchant-ships as are hereby or under the said Merchant Shipping Act, 1854, or as may hereafter under the powers herein contained, be committed to them.

It shall also be the duty of shipping-masters to give to all persons desirous of apprenticing boys to the sea-service, and duly authorized so to do by Act XIX of 1850 (*concerning the binding of apprentices*), and also to masters and owners of ships requiring apprentices, such assistance as may be in their power for facilitating the making of such apprenticeships.[c]

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[a] Under the provisions of Act No. XXXII of 1867, the Governor General in Council delegated to the Chief Commissioner of British Burma the powers conferred on a 'Local Government' by this Act, *Gazette of India*, March 22nd, 1873, Part I, p. 236.

[b] 17 & 18 Vic., c. 104, s. 122.

[c] 17 & 18 Vic., c. 104, s. 124.

5. Such fees, not exceeding the sums specified in the table marked (A) in the schedule to this Act, as are from time to time fixed by the Local Government, shall be payable upon all engagements and discharges effected before shipping-masters as hereinafter mentioned. Scales of the fees payable for the time being shall be conspicuously placed in the shipping-offices; and all shipping-masters, their deputies, clerks, and servants may refuse to proceed with any engagement unless the fees payable thereon are first paid.[a]

Fees to be paid upon engagements and discharges.

6. Every owner or master of a ship engaging or discharging any seaman in a shipping-office or before a shipping-master, shall pay to the shipping-master the whole of the fees hereby made payable in respect of such engagement or discharge, and may, for the purpose of in part reimbursing himself, deduct in respect of each such engagement or discharge from the wages of all persons (except apprentices) so engaged or discharged, and retain, any sums not exceeding the sums specified in that behalf in the table marked (B) in the schedule hereto.

Fees by whom to be paid, &c.

Provided that, if in any cases the sums which the owner is so entitled to deduct exceed the amount of the fee payable by him, such excess shall be paid by him to the shipping-master in addition to such fee.[b]

7. Any shipping-master, deputy shipping-master, or any clerk or servant in any shipping-office, who demands or receives any remuneration whatever, either directly or indirectly, for hiring or supplying any seaman for any merchant-ship, excepting the lawful fees payable under this Act, shall for every such offence incur a penalty not exceeding two hundred rupees, and shall also be dismissed from his office.[c]

Penalty on shipping-master taking other remuneration.

8. The Local Government may direct that, at any place at which no separate shipping-office is established, the whole or any part of the business of the shipping-office shall be conducted at the custom-house, or at the office of the master attendant or harbour-master, or at such other office as the Government shall direct, and thereupon the same shall be there conducted accordingly; and in respect of such business such custom-house or office as aforesaid shall for all purposes be deemed to be a shipping-office, and the officer of customs or other officer there, to whom such business is committed, shall for all purposes be deemed to be a shipping-master within the meaning of this Act.[d]

Business of shipping-office may be transacted at custom-house or elsewhere.

Examinations and Certificates of Masters and Mates.[e]

9. Examinations shall be instituted for persons who intend to become masters or mates of foreign-going ships or of home-trade ships of a burden

Examinations.

[a] 17 & 18 Vic., c. 104, s. 125.
[b] 17 & 18 Vic., c. 104, s. 126.
[c] 17 & 18 Vic., c. 104, s. 127.
[d] 17 & 18 Vic., c. 104, s. 128.
[e] The application of sections 9 to 16 is limited by Act No. IV of 1875, section 29

exceeding three hundred tons, or who wish to procure certificates of competency hereinafter mentioned.[a]

Local Government to appoint examiners.

10. The Local Government or any Board or officer duly authorized by the Local Government in that behalf shall from time to time nominate two or more competent persons for the purpose of examining the qualifications of the applicants for examination.[b] The Local Government may, with the sanction of the Governor General of India in Council, make rules for the conduct of such examinations and as to the qualifications to be required; and such rules shall be strictly adhered to by all examiners. Fees at the following rates shall be paid by all applicants for examination[c]:—

Rules for conduct of examination.

Fees.

For a certificate as master	... ...	ten rupees.
Ditto ditto as mate	... ...	five „

Certificates of competency.

11. The Local Government or such Board or officer as aforesaid shall deliver to every applicant who is reported by the examiners to have passed the examination satisfactorily, and to have given satisfactory evidence of his sobriety, experience, ability and general good conduct on board ship, a certificate (hereinafter called a "certificate of competency") to the effect that he is competent to act as master or mate of a foreign-going ship or of a home-trade ship of a burden exceeding three hundred tons, as the case may be.[d]

Certificates of service.

12. Certificates of service differing in form from certificates of competency shall be granted as follows (that is to say)—

1.—Every person who before the passing of this Act has served as master in the British merchant-service or as master of any foreign-going ship registered under Act X of 1841, or who has attained or shall attain the rank of lieutenant, master, passed mate, or second mate, or any higher rank, in the service of Her Majesty or of the East India Company, shall be entitled to a certificate of service as master for foreign-going ships.

2.—Every person who before the passing of this Act has served as mate in the British merchant-service or as mate of any such ship as aforesaid shall be entitled to a certificate of service as mate for foreign-going ships.

3.—Every person who before the passing of this Act has served as master or mate of a home-trade ship of a burden exceeding three hundred tons, shall be entitled to a certificate of service as master or mate (according to such previous service) for such home-trade ships.

And each of such certificates of service shall contain particulars of the name and of the length and nature of the previous service of the person to whom it is delivered; and the Local Government or such other authority as

[a] 17 & 18 Vic., c. 104, s. 131.
[b] 17 & 18 Vic., c. 104, s. 132.
[c] 17 & 18 Vic., c. 104, s. 133.
[d] 17 & 18 Vic., c. 104, s. 134.

aforesaid shall deliver such certificates of service to the various persons so respectively entitled thereto upon their proving themselves to have attained such rank or to have served as aforesaid, and upon their giving a full and satisfactory account of the particulars aforesaid.[a]

No foreign-going ship and no home-trade ship above 300 tons to go to sea without certificated master, &c.

13. No foreign-going ship or home-trade ship of a burden exceeding three hundred tons shall go to sea from any port in India unless the master and one officer besides the master have obtained and possess valid and appropriate certificates either of competency or service under this Act or under the Merchant Shipping Act, 1854; and whoever, having been engaged to serve as master or mate, goes to sea as aforesaid as such master or mate without being at the time entitled to and possessed of such a certificate as hereinbefore required, and whoever employs any person as such master or mate without ascertaining that he is at the time entitled to and possessed of such certificate, shall for each such offence be liable to a penalty of five hundred rupees.[b]

Certificates for foreign-going ships available for home-trade ships.

14. Every certificate of competency for a foreign-going ship shall be deemed to be of a higher grade than the corresponding certificate for a home-trade ship, and shall entitle the lawful holder thereof to go to sea in the corresponding grade in such last mentioned ship; but no certificate for a home-trade ship shall entitle the holder to go to sea as master or mate of a foreign-going ship.[c]

Record of grants, cancellations, &c., of certificates.

15. All certificates, whether of competency or service, shall be made in duplicate, and one part shall be delivered to the person entitled to the certificate, and the other shall be kept and recorded as the Local Government shall direct. A note of all orders made for cancelling, suspending, altering, or otherwise affecting any certificate in pursuance of the powers herein contained, shall be entered in the record of certificates.[d]

Loss of certificate.

16. Whenever any master or mate proves to the satisfaction of the Local Government or such other authority as aforesaid that he has, without fault on his part, lost or been deprived of any certificate already granted to him, a copy of the certificate to which by the record so kept as aforesaid he appears to be entitled, shall be delivered to him, and shall have all the effect of the original.[e]

17. [*Repealed by Act No. XV of* 1863.]

Engagement of Seamen.

Licenses to procure seamen.

18. The Local Government, or any Board or officer duly authorized by the Local Government in that behalf, may grant to such persons as may be

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[a] 17 & 18 Vic., c. 104, s. 135. [b] 17 & 18 Vic., c. 104, s. 136. [c] 17 & 18 Vic., c. 104, s. 137. [d] 17 & 18 Vic., c. 104, s. 138. [e] 17 & 18 Vic., c. 104, s. 139.

deemed fit, licenses to engage or supply seamen for merchant ships, to continue for such periods, to be upon such terms, and to be revocable upon such conditions as the Government thinks proper.[a]

Penalties.

19. The following offences shall be punishable as hereinafter mentioned; (that is to say)—

For supplying seamen without license.

(1.) If any person not licensed as aforesaid, other than the owner or master or mate of the ship, or some person who is *bonâ fide* the servant and in the constant employ of the owner, or a shipping master duly appointed as aforesaid, engages or supplies any seaman to be entered on board any ship, he shall for each seaman so engaged or supplied incur a penalty not exceeding one hundred rupees.

For employing unlicensed persons.

(2.) If any person employs any unlicensed person, other than persons so excepted as aforesaid, for the purpose of engaging or supplying any seaman to be entered on board any ship, he shall for each seaman so engaged or supplied incur a penalty not exceeding one hundred rupees, and, if licensed, shall in addition forfeit his license.

For receiving seamen illegally supplied.

(3.) If any person knowingly receives or accepts to be entered on board any ship any seaman who has been engaged or supplied contrary to the provisions of this Act, he shall for every seaman so engaged or supplied incur a penalty not exceeding one hundred rupees.[b]

Penalty for receiving remuneration from seamen for shipping them.

20. If any person demands or receives, either directly or indirectly, from any seaman, or from any person seeking employment as a seaman, or from any person on his behalf, any remuneration whatever, other than the fees hereby authorized, for providing him with employment, he shall for every such offence incur a penalty not exceeding fifty rupees,[c] and, if licensed as aforesaid, shall in addition forfeit his license.

21. [*Repealed by Act No. XV of* 1863. *See now Act No. IV of* 1875, *ss.* 24—27, *as to agreements with seamen.*]

Rules as to agreements, in case of foreign-going ships.

22. In the case of all foreign-going ships,[d] in whatever part of Her Majesty's dominions the same are registered, the following rules shall be observed with respect to agreements; (that is to say)—

Agreement to be signed by seaman.

1. Every agreement made in any port in India (except in such cases of agreements with substitutes as are hereafter specially provided for) shall be signed by each seaman in the presence of a shipping-master.

Shipping-master to cause agreement to

2. Such shipping-master shall cause the agreement to be read over and explained to each seaman, in a language understood by him, or shall otherwise

[a] 17 & 18 Vic., c. 104, s. 146.
[b] 17 & 18 Vic., c. 104, s. 147.
[c] 17 & 18 Vic., c. 104, s. 148.
[d] See *infra* s. 118.

ascertain that each seaman understands the same before he signs it, and shall attest each signature. be explained to seaman.

3. When the crew is first engaged the agreement shall be signed in duplicate, and one part shall be retained by the shipping-master, and the other part shall contain a special place or form for the descriptions and signatures of substitutes or persons engaged subsequently to the first departure of the ship, and shall be delivered to the master. To be in duplicate.

4. In the case of substitutes engaged in the place of seamen who have duly signed the agreement, and whose services are lost within twenty-four hours of the ship's putting to sea by death, desertion, or other unforeseen cause, the engagement shall, when practicable, be made before some shipping-master duly appointed in the manner hereinbefore specified; and whenever such last mentioned engagement cannot be so made, the master shall, before the ship puts to sea if practicable, and if not, as soon afterwards as possible, cause the agreement to be read over and explained to the seamen; and the seamen shall thereupon sign the same in the presence of a witness, who shall attest their signatures.[a] Provision for substitutes.

23. In the case of foreign-going ships making voyages averaging less than six months in duration, running agreements with the crew may be made to extend over two or more voyages, so that no such agreement shall extend beyond the next following 30th day of June or 31st day of December, or the first arrival of the ship at her port of destination in India after such date, or the discharge of cargo consequent upon such arrival; and every person entering into such agreement, whether engaged upon the first commencement thereof or otherwise, shall enter into and sign the same in the manner hereby required for other foreign-going ships; and every person engaged thereunder, if discharged in any port in India, shall be discharged in the manner hereby required for the discharge of seamen belonging to other foreign-going ships.[b] Foreign-going ships making short voyages may have running agreements.

24. The master of every foreign-going ship for which such a running agreement as aforesaid is made shall, upon every return to any port in India before the final termination of the agreement, discharge or engage before the shipping-master at such port any seaman whom he is required by law so to discharge or engage; and shall upon every such return endorse on the agreement a statement (as the case may be) either that no such discharges or engagements have been made or are intended to be made before the ship again leaves port, or that all such discharges or engagements have been duly Engagement and discharge of seamen in the meantime.

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[a] 17 & 18 Vic., c. 104, s. 150.

[b] 17 & 18 Vic., c. 104, s. 151.

made as hereinbefore required; and shall deliver the agreement so endorsed to the shipping-master:

and any master who wilfully makes a false statement in such endorsement shall incur a penalty not exceeding two hundred rupees;

and the shipping-master shall also sign an endorsement on the agreement to the effect that the provisions of this Act relating to such agreement have been complied with, and shall re-deliver the agreement so endorsed to the master.[a]

Fees to be paid on such running agreements.

25. For the purpose of determining the fees to be paid upon the engagement and discharge of seamen belonging to foreign-going ships which have running agreements as aforesaid, the crew shall be considered to be engaged when the agreement is first signed, and to be discharged when the agreement finally terminates; and all intermediate engagements and discharges shall be considered to be engagements and discharges of single seamen.[b]

In home-trade ships agreement to be entered into before a shipping-master or other witness.

26. In the case of home-trade ships of a burden exceeding three hundred tons, crews or single seamen may, if the master thinks fit, be engaged before a shipping-master in the manner hereinbefore directed with respect to foreign-going ships; and in every case in which the engagement is not so made, the master shall, before the ship puts to sea if practicable, and if not, as soon afterwards as possible, cause the agreement to be read over and explained to each seaman, and the seaman shall thereupon sign the same in the presence of a witness, who shall attest his signature.[c]

Special agreements for home-trade ships belonging to same owner.

27. In cases where several home-trade ships belong to the same owner, the agreement with the seamen may, notwithstanding anything herein contained, be made by the owner instead of by the master, and the seamen may be engaged to serve in any two or more of such ships, provided that the names of the ships and the nature of the service are specified in the agreement; but, with the foregoing exception, all provisions herein contained which relate to ordinary agreements for home-trade ships shall be applicable to agreements made in pursuance of this section.[d]

Penalty for shipping seamen without agreement duly executed.

28. If in any case a master carries any seaman to sea without entering into an agreement with him in the form and manner and at the place and time hereby in such case required, the master shall for each such offence incur a penalty not exceeding fifty rupees.[e]

Changes in crew to be reported.

29. The master of every foreign-going ship, of which the crew has been engaged before a shipping-master, shall, before finally leaving India, sign

[a] 17 & 18 Vic., c. 104, s. 152. [b] 17 & 18 Vic., c. 104, s. 154. [c] 17 & 18 Vic., c. 104, s. 155. [d] 17 & 18 Vic., c. 104, s. 156. [e] 17 & 18 Vic., c. 104, s. 157.

and send to the nearest shipping-master a full and accurate statement, in a form sanctioned by the Governor General of India in Council, of every change which takes place in his crew before finally leaving India, and in default shall for each offence incur a penalty not exceeding fifty rupees; and such statement shall be admissible in evidence subject to all just exceptions.[a]

To prevent infraction of Act, shipping-master may board vessels and muster seamen.

30. For the purpose of preventing any seamen from being shipped at any port in India contrary to the provisions of this Act, the shipping-master by himself or his deputy may enter at any time on board any ship upon which he shall have reason to believe that seamen have been shipped, and may muster and examine the several seamen employed therein; and any person who shall obstruct the said shipping-master or deputy in such duty shall be liable to a penalty not exceeding one hundred rupees.

Production of agreements and certificates in case of foreign-going ships.

31. The following rules shall be observed with respect to the production of agreements and certificates of competency or service for foreign-going ships (that is to say)—

1. The master of every foreign-going ship shall, on signing the agreement with his crew, produce to the shipping-master before whom the same is signed, the certificates of competency or service which the said master and his mate are hereby required to possess; and upon such production being duly made, and the agreement being duly executed as hereby required, the shipping-master shall sign and give to the master a certificate to that effect.

2. In the case of running agreements for foreign-going ships, the shipping-master shall, before the second and every subsequent voyage made after the first commencement of the agreement, sign and give to the master, on his complying with the provisions herein contained with respect to such agreements, and producing to the shipping-master the certificate of competency or service of any mate then first engaged by him, a certificate to that effect.

3. The master of every foreign-going ship shall, before proceeding to sea, produce the certificate so to be given to him by the shipping-master as aforesaid to the collector of customs, or if there be no collector of customs, to the officer whose duty it is to grant a port-clearance. No officer of customs or other officer shall clear any such ship outwards without such production; and if any such ship attempts to go to sea without a clearance, any such officer may detain her until such certificate as aforesaid is produced.

4. The master of every foreign-going ship shall, within forty-eight hours after the ship's arrival at her final port of destination in India, or upon the discharge of the crew, whichever first happens, deliver such agreement

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17 & 18 Vic., c. 104, s. 158.

to a shipping-master at the place; and such shipping-master shall thereupon give to the master a certificate of such delivery; and no officer of customs or other officer shall clear any foreign-going ship inwards without the production of such certificate.

And if the master of any foreign-going ship fails to deliver the agreement to a shipping-master at the time and in the manner hereby directed, he shall for every default incur a penalty not exceeding fifty rupees.[a]

Rules as to production of agreements and certificates for home-trade ships.

32. The following rules shall be observed with respect to the production of agreements and certificates of competency or service for home-trade ships of a burden exceeding three hundred tons (that is to say)—

1. No such agreement shall extend beyond the next following thirtieth day of June or thirty-first day of December, or the first arrival of the ship at her final port of destination in India after such date, or the discharge of cargo consequent upon such arrival.

2. The master or owner of every such ship shall, within twenty-one days after the thirtieth day of June and the thirty-first day of December in every year, or (if the ship is not at any port in India within twenty-one days after either the thirtieth day of June or the thirty-first day of December in any year) within forty-eight hours after her next arrival at any port in India, transmit or deliver to some shipping-master in India every agreement made within the six calendar months next preceding such days respectively, and shall also produce to the shipping-master the certificates of competency or service which the said master and his mate are hereby required to possess.

3. The shipping-master shall thereupon give to the master or owner a certificate of such delivery and production; and no officer of customs or other officer authorized to grant a port-clearance shall grant a clearance for any such ship without the production of such certificate; and if any such ship attempts to go to sea without such clearance, any such officer may detain her until the said certificate is produced.

And if the agreement for any home-trade ship is not delivered or transmitted by the master or owner to a shipping-master at the time and in the manner hereby directed, such master or owner shall for every default incur a penalty not exceeding fifty rupees.[b]

Alterations to be void unless attested to have been made with the consent of all parties.

33. Every erasure, interlineation, or alteration in any such agreement with seamen as is required by this Act (except additions so made as hereinbefore directed for shipping substitutes or persons engaged subsequently to the first departure of the ship) shall be wholly inoperative, unless proved to have been

[a] 17 & 18 Vic., c. 104, s. 161. [b] 17 & 18 Vic., c. 104, s. 162.

made with the consent of all the persons interested in such erasure, interlineation, or alteration by the written attestation (if made in Her Majesty's dominions) of some shipping master, Justice, officer of customs, or other public functionary, or (if made out of Her Majesty's dominions) of a British consular officer, or where there is no such officer, of two respectable British merchants.[a]

Copy of agreement to be made accessible to crew.

34. The master shall, at the commencement of every voyage or engagement, cause a legible copy of the agreement, and if necessary a translation thereof in a language understood by the majority of the crew (omitting the signatures), to be placed or posted up in such part of the ship as to be accessible to the crew, and in default shall for each offence incur a penalty not exceeding fifty rupees.[b]

Seamen discharged before voyage to have compensation.

35. Any seaman who has signed an agreement, and is afterwards discharged before the commencement of the voyage or before one month's wages are earned, without fault on his part justifying such discharge and without his consent, shall be entitled to receive from the master or owner, in addition to any wages he may have earned, due compensation for the damage thereby caused to him, not exceeding one month's wages, and may, on adducing such evidence as the Court or Magistrate hearing the case deems satisfactory, of his having been so improperly discharged as aforesaid, recover such compensation as if it were wages duly earned.[c]

Regulation of Advances.

Regulation of advances and advance-notes.

36. No advance of wages shall be made or advance-note given to any person but the seaman himself; and no advance of wages shall be made or advance-note[d] given for any greater sum than the amount of one month's wages, nor unless the agreement contains a stipulation for the same and an accurate statement of the amount thereof, and no advance-note shall be given to any seaman who signs the agreement before a shipping-master, unless in the presence of such shipping-master.

Advances irregularly or improperly made not to be a discharge of wages.

37. If any advance of wages is made or any advance-note given to any seaman in any such manner as to constitute a breach of any of the above provisions, the wages of such seaman shall be recoverable by him as if no such advance had been made or advance-note given, and in the case of any advance-note so given, no person shall be sued thereon under the provisions hereinafter contained unless he was in person or by his agent a party to the irregular or improper manner of giving the same.

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[a] 17 & 18 Vic., c. 104, s. 163.

[b] 17 & 18 Vic., c. 104, s. 166.

[c] 17 & 18 Vic., c. 104, s. 167.

[d] See *McKwue* v. *Joynson*, 5 C. B. N. S. 218.

Allotment of Wages.

Stipulations for allotment to be inserted in the agreement. Allotment-notes.

38. All stipulations for the allotment of any part of the wages of a seaman during his absence, which are made at the commencement of the voyage, shall be inserted in the agreement, and shall state the amounts and times of the payments to be made.[a] All allotment-notes shall be in forms sanctioned by the Local Government, and shall be made for the benefit only of a relative of the seaman or some member of his family to be named in the note, and shall be payable to the shipping-master on account of such relative of the seaman or member of his family. Such allotment shall not in any case exceed one-third of the wages of the seaman.

Owner, &c., to pay to shipping-master the sums allotted.

Suits on allotment-notes.

Evidence.

39. The owner or any agent who has authorized the drawing of an allotment-note shall pay to the shipping-master on demand the sums allotted by the note, when and as the same are made payable, unless the seaman is shown in manner hereinafter mentioned to have forfeited or ceased to be entitled to the wages out of which the allotment is to be paid; and in the event of such sums not being paid to the shipping-master on demand, the shipping-master may sue for and recover them with costs. The seaman shall be presumed to be duly earning his wages, unless the contrary is shown to the satisfaction of the Court or Magistrate; either by the official statement of the change in the crew caused by his absence made and signed by the master, as by this Act is required, or by a duly certified copy of some entry in the official log-book to the effect that he has died or left the ship, or by a credible letter from the master of the ship to the same effect, or by such other evidence, of whatever description, as the Court or Magistrate trying the case considers sufficient to show satisfactorily that the seaman has ceased to be entitled to the wages out of which the allotment is to be paid.[b]

Receipts and payments by shipping-master on account of allotment-notes.

40. The shipping-master, on receiving any such sum as aforesaid, shall pay it over to the person named in the allotment-note. All such receipts and payments shall be entered in a book, and all entries in the said book shall be authenticated by the signature of the shipping-master or his deputy; and the said book shall be at all times open to the inspection of the parties concerned.

Discharge and Payment of Wages.

Discharge from foreign-going ships to be made before shipping-master.

41. All seamen discharged from any foreign-going ship at any port in India in whatever part of Her Majesty's dominions the ship is registered, shall be discharged and receive their wages in the presence of a shipping-master duly appointed under this Act, except in cases where some competent

[a] 17 & 18 Vic., c. 104, s. 168.

[b] 17 & 18 Vic., c. 104, s. 169.

Court otherwise directs; and any master or owner of any such ship who discharges any seaman belonging thereto, or except as aforesaid pays his wages in any other manner, shall incur a penalty not exceeding one hundred rupees; and in the case of home-trade ships of a burden exceeding three hundred tons, seamen may, if the owner or master so desires, be discharged and receive their wages in like manner.[a]

Master to deliver account of wages.

42. Every master shall, not less than twenty-four hours before paying off or discharging any seaman, deliver to him, or, if he is to be discharged before a shipping-master, to such shipping-master, a full and true account, in a form sanctioned by the Local Government, of his wages and of all deductions to be made therefrom on any account whatever, and in default shall for each offence incur a penalty not exceeding fifty rupees; and no deduction from the wages of any seamen (except in respect of any matter happening after such delivery) shall be allowed unless it is included in the account so delivered; and the master shall during the voyage enter the various matters in respect of which such deductions are made, with the amounts of the respective deductions as they occur, in a book to be kept for that purpose, and shall, if required, produce such book at the time of the payment of wages and also upon the hearing before any competent authority of any complaint or question relating to such payments.[b]

On discharge, masters to give seamen certificates of discharge, and return certificates of competency or service to mates.

43. Upon the discharge of any seaman, or upon payment of his wages, the master shall sign and give him a certificate of his discharge, in a form sanctioned by the Local Government, specifying the period of his service and the time and place of his discharge; and if any master fails to sign and give to any such seaman such certificate of discharge, he shall for each such offence incur a penalty not exceeding one hundred rupees; and the master shall also upon the discharge of every certificated mate whose certificate of competency or service has been delivered to and retained by him, return such certificate, and shall in default incur a penalty not exceeding two hundred rupees.[c]

Shipping-master may decide questions which parties refer to him.

44. Every shipping-master shall hear and decide any question whatever between a master or owner and any of his crew which both parties agree in writing to submit to him; and every award so made by him shall be binding on both parties, and shall in any legal proceeding which may be taken in the matter before any Court or Magistrate, be deemed to be conclusive as to the rights of the parties; and any document purporting to be such submission or award shall be *primâ facie* evidence thereof.[d] An award made by a shipping-

[a] 17 & 18 Vic., c. 104, s. 170.
[b] 17 & 18 Vic., c. 104, s. 171.
[c] 17 & 18 Vic., c. 104, s. 172.
[d] 17 & 18 Vic., c. 104, s. 173.

How award may be enforced.

master under this section may be enforced by a Magistrate in the same manner as an order for the payment of wages made by such Magistrate under the provision of section 55.

Master and others to produce ship's papers to shipping-masters, and give evidence.

45. In any proceeding relating to the wages, claims, or discharge of any seaman carried on before any shipping-master under the provisions of this Act, such shipping-master may call upon the owner or his agent, or upon the master, or any mate or other member of the crew, to produce any log-books, papers, or other documents in their respective possession or power relating to any matter in question in such proceeding, and may call before him and examine any of such persons being then at or near the place on any such matter; and every owner, agent, master, mate, or other member of the crew who, when called upon by the shipping-master, does not produce any such paper or document as aforesaid if in his possession or power, or does not appear and give evidence, shall, unless he shows some reasonable excuse for such default, for each such offence incur a penalty not exceeding fifty rupees. [a]

Settlement of wages.

46. The following rules shall be observed with respect to the settlement of wages (that is to say)—

Release to be signed before and attested by the shipping-master.

1.—Upon the completion before a shipping-master of any discharge and settlement, the master or owner and each seaman shall respectively, in the presence of the shipping-master, sign, in a form sanctioned by the Local Government, a mutual release of all claims in respect of the past voyage or engagement, and the shipping-master shall also sign and attest the release and shall retain the same.

To be a discharge.

2.—Such release so signed and attested shall operate as a mutual discharge and settlement of all demands between the parties thereto in respect of the past voyage or engagement.

And to be evidence.

3.—A copy of such release, certified under the hand of such shipping-master to be a true copy, shall be given by him to any party thereto requiring the same, and such copy shall be receivable in evidence upon any future question touching such claims as aforesaid, and shall have all the effect of the original of which it purports to be a copy.

No other receipt to be a discharge.

4.—In cases in which discharge and settlement before a shipping-master are hereby required, no payment, receipt, settlement, or discharge otherwise made shall operate or be admitted as evidence of the release or satisfaction of any claim.

Voucher to be given to master and to be evidence.

5.—Upon any payment being made by a master before a shipping-master, the shipping-master shall, if required, sign and give to such master a statement of the whole amount so paid, and such statement shall, as between the

[a] 17 & 18 Vic., c. 104, s. 174.

master and his employer, be received as evidence that he has made the payments therein mentioned.[a]

LEGAL RIGHTS TO WAGES.

47. A seaman's right to wages and provisions shall be taken to commence either at the time at which he commences work, or at the time specified in the agreement for his commencement of work or presence on board, whichever first happens.[b]

Right to wages and provisions when to begin.

48. No seaman shall by any agreement forfeit his lien upon the ship or be deprived of any remedy for the recovery of his wages to which he would otherwise have been entitled; and every stipulation in any agreement inconsistent with any provision of this Act, and every stipulation by which any seaman consents to abandon his rights to wages in the case of the loss of the ship or to abandon any right which he may have or obtain in the nature of salvage, shall be wholly inoperative.[c]

Seamen not to give up certain rights.

49. No right to wages shall be dependent on the earning of freight; and every seaman and apprentice who would be entitled to demand and recover any wages if the ship in which he has served had earned freight, shall, subject to all other rules of law and conditions applicable to the case, be entitled to claim and recover the same notwithstanding that freight has not been earned; but in all cases of wreck or loss of the ship, proof that he has not exerted himself to the utmost to save the ship, cargo and stores shall bar his claim.[d]

Wages not to be dependent on the earning of freight.

50. If any seaman or apprentice to whom wages are due under the last preceding section dies before the same are paid, they shall be paid and applied in the manner hereinafter specified with regard to the wages of seamen who die during a voyage.[e]

In case of death, such wages to be paid as after mentioned.

51. In cases where the service of any seaman terminates before the period contemplated in the agreement by reason of the wreck or loss of the ship, and also in cases where such service terminates before such period as aforesaid by reason of his being left on shore at any place abroad under a certificate of his unfitness or inability to proceed on the voyage granted under the provisions of the Merchant Shipping Act, 1854, such seaman shall be entitled to wages for the time of service prior to such termination as aforesaid, but not for any further period.[f]

Rights to wages in case of termination of service by wreck or illness.

52. No seaman or apprentice shall be entitled to wages for any period during which he unlawfully refuses or neglects to work when required, whether before or after the time fixed by the agreement for his beginning work; nor, unless the Court or Magistrate hearing the case otherwise directs, for any

Wages not to accrue during refusal to work or imprisonment.

[a] 17 & 18 Vic., c. 104, s. 175.
[b] 17 & 18 Vic., c. 104, s. 181.
[c] 17 & 18 Vic., c. 104, s. 182.
[d] 17 & 18 Vic., c. 104, s. 183.
[e] 17 & 18 Vic., c. 104, s. 184.
[f] 17 & 18 Vic., c. 104, s. 185.

period during which he is lawfully imprisoned for any offence committed by him.[a]

Period within which wages are to be paid.

53. The master or owner of every ship shall pay to every seaman his wages within three days after the cargo has been delivered, or within five days after the seaman's discharge, whichever first happens; and the seaman shall at the time of his discharge be entitled to be paid on account a sum equal to one-fourth part of the balance due to him; and every master or owner who neglects or refuses to make payment in manner aforesaid without sufficient cause, shall pay to the seaman a sum not exceeding the amount of two days' pay for each of the days not exceeding ten days[b] during which payment is delayed beyond the respective periods aforesaid; and such sum shall be recoverable as wages.[c]

Sum in current coin of India recoverable by seaman under agreement expressing his wages, &c., to be payable in foreign coin.

54. When any monies are payable in India to any seaman or apprentice for wages or otherwise under any agreement wherein such monies are expressed to be payable in some denomination of coin other than the current coin of the port or place wherein the same have become payable, the seaman or apprentice shall be entitled to demand and recover, in the current coin of such port or place, the amount due to him estimated according to the established par value of the coin wherein the same is so expressed to be payable.[d]

Mode of Recovering Wages.

Seaman may sue summarily before any Magistrate for wages not exceeding 500 rupees.

Order of Magistrate final.

55. Any seaman or apprentice, or any person duly authorized on his behalf may sue, in a summary manner, before any Magistrate acting in or near to the place at which the service has terminated or at which the seaman or apprentice has been discharged or at which any person upon whom the claim is made is or resides, for any amount of wages due to such seaman or apprentice not exceeding five hundred rupees. Every order made by such Magistrate in the matter shall be final.[e]

Levy of wages by distress.

56. When an order for the payment of wages is made by a Magistrate under the last preceding section, and the wages are not paid at the time and in the manner prescribed, the sum mentioned in the order, with such further sum as may be thereby awarded for costs, shall be levied by distress and sale of the goods and chattels of the person directed to pay the same under a warrant to be issued for that purpose by the Magistrate.

No suit for wages under 500 rupees to

57. No suit or proceeding for the recovery of wages under the sum of five hundred rupees shall be instituted by or on behalf of any seaman or

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[a] 17 & 18 Vic., c. 104, s. 186.
[b] *The Princess Helena*, 1 Lush., 190.
[c] 17 & 18 Vic., c. 104, s. 187.
[d] See Story, *Conflict of Laws*, §§ 308, 309, 310. Westlake, *Private International Law*, § 232.
[e] 17 & 18 Vic., c. 104, s. 188.

apprentice in any Court of admiralty or vice-admiralty or in any Court of civil judicature other than the Court of Small Causes, where such Court exists, unless the owner of the ship is adjudged bankrupt or declared insolvent, or unless the ship is under arrest or is sold by the authority of any such Court, or unless the Magistrate, acting under the authority of this Act, refers the case to be adjudged by such Court.[a]

be instituted in admiralty Court, &c., except in certain cases.

58. Every master[b] of a ship shall, so far as the case permits, have the same rights, liens,[c] and remedies for the recovery of his wages which by this Act or by any law or custom any seaman, not being a master, has for the recovery of his wages; and if, in any proceeding in any Court of admiralty or vice-admiralty touching the claim of a master to wages, any right of set-off or counter-claim is set up, it shall be lawful for such Court to enter into and adjudicate upon all questions, and to settle all accounts then arising or out-standing and unsettled between the parties to the proceeding, and to direct payment of any balance which is found to be due.[d]

Master to have same remedies for wages as seamen.

WAGES AND EFFECTS OF DECEASED SEAMEN.

59. Whenever a seaman or apprentice, on a voyage which is to terminate at any port in India, dies during such voyage, the master shall take charge of all money, clothes, and effects which he leaves on board, and shall enter in the official log-book a statement of the amount of money and a description of the effects left by the deceased, and in case of a sale of such effects, the sum received for each article sold.[e]

Master to take charge of effects of deceased seamen.

60. The master shall, within forty-eight hours after his arrival at his port of destination in India, deliver any such effects as aforesaid, and pay any money which he has taken charge of or received, and also the wages due to deceased, to the shipping-master at such port, and shall give to such shipping-master an account of the effects, money, and wages so to be delivered and paid; and no deductions claimed in such account shall be allowed unless verified, if there is an official log-book, by the entry therein hereinbefore required, and also by such other vouchers (if any) as may be reasonably required by the shipping-master to whom the account is rendered.[f]

Effects and wages to be paid to shipping-master with full accounts.

61. If the master fails to take such charge of the money or other effects of a seaman or apprentice dying during a voyage, or to make such entries in respect thereof, or to make such payment or delivery, or to give such account as hereinbefore respectively directed, he shall be accountable for the money,

Penalties for not taking charge of or accounting for such monies and effects.

[a] 17 & 18 Vic., c. 104, s. 189.
[b] This includes the master of a foreign ship, *The Milford*, 1 Swa. 362.
[c] See *The Rajah of Cochin*, 1 Swa. 472.
[d] 17 & 18 Vic., c. 104, s. 191.
[e] 17 & 18 Vic., c. 104, s. 194.
[f] 17 & 18 Vic., c. 104, s. 195.

wages, and effects of the seaman or apprentice to the shipping master as aforesaid, and shall pay and deliver the same accordingly: and such master shall in addition incur a penalty not exceeding treble the value of the money or effects, or if such value is not ascertained, not exceeding five hundred rupees. All money, wages, and effects of any seaman or apprentice dying during a voyage shall be recoverable in the same Courts and by the same modes of proceeding by which seamen are hereby enabled to recover wages due to them.[a]

Wages and property of deceased seamen may be paid without probate.

62. When money or effects left by or due to any deceased seaman or apprentice are paid or delivered to a shipping-master, then, subject to such deductions for expenses incurred in respect of the seaman or apprentice or of his said money and effects as the shipping-master thinks proper to allow, the shipping-master may pay and deliver the said money and effects to any claimants who can prove themselves to the satisfaction of the said shipping-master to be entitled thereto, and the said shipping-master shall be thereby discharged from all further liability in respect of the money and effects so paid and delivered; or if he think fit so to do, the shipping-master may require probate or letters of administration or a certificate under Act XX of 1841 (*for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons*[b]) to be taken out, and thereupon pay and deliver the said money and effects to the legal representative of the deceased.[c]

Disposal of wages or effects of deceased seamen not claimed within one year.

63. In cases of wages or effects of deceased seamen or apprentices received by any shipping-master to which no claim is substantiated within one year from the receipt thereof by such shipping-master, it shall be the duty of the shipping-master to cause such effects to be sold and to pay the proceeds of the sale and the unclaimed wages into the public treasury.

If subsequent claim be made thereto.

If any subsequent claim is made to such money and is established to the satisfaction of the shipping-master, the amount or so much as shall appear to be due to the claimant, shall be paid out of the public treasury.

If the claim is not established to the satisfaction of the shipping-master, the claimant may apply by petition in a summary way to the Supreme Court of Judicature of the presidency, or in any station of the Settlement of Prince of Wales' Island, Singapore, and Malacca, to the Court of Judicature there, and such Court, after taking evidence either orally or on affidavit, shall make such order on the petition as shall seem just.

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[a] 17 & 18 Vic., c. 104, s. 196.
[b] Repealed by Act No. XXVII of 1860.
[c] 17 & 18 Vic., c. 104, s. 199.

Provided that, after the expiration of six years from the receipt of such wages or effects by the shipping-master, no such claim shall be entertained without the sanction of the Local Government. Proviso.

PROVISIONS, HEALTH, AND ACCOMMODATION.

64. Any three or more of the crew of any ship registered at, trading with, or being at any port or place in India, may complain to any shipping-master or other officer duly appointed in this behalf by the Local Government that the provisions or water for the use of the crew are at any time of bad quality, unfit for use, or deficient in quantity; and such officer may thereupon examine the said provisions or water or cause them to be examined; and if, on examination, such provisions or water are found to be of bad quality and unfit for use, or to be deficient in quantity, the person making such examination shall signify the same in writing to the master of the ship; Survey of provisions and water on complaint made.

and if such master does not thereupon provide other proper provisions or water in lieu of any so signified to be of a bad quality and unfit for use, or does not procure the requisite quantity of any so signified to be insufficient in quantity, or uses any provisions or water which have been so signified as aforesaid to be of a bad quality and unfit for use, he shall in every such case incur a penalty not exceeding two hundred rupees;

and upon every such examination as aforesaid, the officers making or directing the same shall enter a statement of the result of the examination in the official log, and shall send a report thereof to the shipping-master, and such report, if produced out of the custody of such shipping-master, shall be received in evidence in any legal proceeding.[a]

65. If the officer to whom any such complaint as last aforesaid is made, certifies in such statement as aforesaid that there was no reasonable ground for such complaint, each of the parties so complaining shall be liable to forfeit to the owner out of his wages a sum not exceeding one week's wages.[b] Forfeiture for frivolous complaint.

66. In the following cases (that is to say)— Allowance for short or bad provisions.

1.—If during a voyage the allowance of any of the provisions which any seaman has by his agreement stipulated for, is reduced (except in accordance with any regulations for reduction by way of punishment contained in the agreement, and also except for any time during which such seaman wilfully and without sufficient cause refuses or neglects to perform his duty, or is lawfully under confinement for misconduct, either on board or on shore);

2.—If it is shown that any of such provisions are or have during the voyage been bad in quality and unfit for use;

[a] 17 & 18 Vic., c. 104, s. 221. [b] 17 & 18 Vic., c. 104, s. 222.

the seaman shall receive by way of compensation for such reduction or bad quality, according to the time of its continuance, the following sums, to be paid to him in addition to and to be recoverable as wages (that is to say)—

(1).—If his allowance is reduced by any quantity not exceeding one-third of the quantity specified in the agreement, a sum not exceeding three annas in the case of a European seaman or other person shipped on the same footing as a European seaman, or one anna in the case of a lascar or native seaman.

(2).—If his allowance is reduced by more than one-third of such quantity, six annas in the case of a European seaman or other person shipped on the same footing as a European seaman, or two annas in the case of a lascar or native seaman.

(3).—In respect of such bad quality as aforesaid, a sum not exceeding eight annas in the case of a European seaman or other person shipped on the same footing as a European seaman, or three annas in the case of a lascar or native seaman.

But if it is shown to the satisfaction of the Court or Magistrate trying the case, that any provisions, the allowance of which has been reduced, could not be procured, or supplied in proper quantities, and that proper and equivalent substitutes were supplied in lieu thereof, such Court or Magistrate shall take such circumstances into consideration, and shall modify or refuse compensation as the justice of the case may require.[a]

Medicines, &c., to be provided and kept on board certain ships.

67. All foreign-going ships and all home-trade ships of a burden exceeding three hundred tons shall have always on board a sufficient supply of medicines and appliances, suitable for diseases and accidents likely to happen on sea voyages, according to such scale as shall be from time to time issued by the Local Government with the approval of the Governor General of India in Council, and published at Calcutta, Madras, and Bombay in the Government Gazettes, and in the Straits Settlement in such manner as the Governor shall notify, and in default thereof, the owner or master of every such ship shall be liable to a penalty not exceeding two hundred rupees. Provided, however, that this section shall not apply to ships navigating from the United Kingdom and coming within the provisions of section 224 of the Merchant Shipping Act, 1854.

Proviso.

Masters to keep weights and measures on board.

68. Every master shall keep on board proper weights and measures for the purposes of determining the quantities of the several provisions and articles served out, and shall allow the same to be used at the time of serving out such provisions and articles in the presence of a witness whenever any dispute

[a] 17 & 18 Vic., c. 104, s. 223.
See *The Josephine*, 1 Swa. 152.

arises about such quantities, and in default shall for every offence incur a penalty not exceeding one hundred rupees.[a]

Expense of medical attendance and subsistence in case of illness how to be defrayed.

69. Whenever the master or any seaman of any ship registered at any place in India shall receive any hurt or injury in the service of the vessel, the expense of providing the necessary surgical and medical advice and attendance with medicines, and of his subsistence, until he shall be cured or shall be brought back to the port from which he was shipped or other port agreed upon, shall be defrayed, with the cost of his conveyance to such port, by the owner of the vessel without any deduction on that account from the wages of such master, officer, or seaman;[b] and if paid by himself, may be recovered as part of his wages; and if paid or allowed out of any monies forming part of the revenues of India, shall be a charge upon the ship, and may be recovered with full costs of suit by the Secretary of State in Council.

Place to be appropriated.

70. A place or places of shelter shall be provided below a well caulked and substantial deck for the men engaged under this Act; such place or places shall be so arranged as to allow for the men the following spaces:—

to European seamen,

1.—For each European seaman or apprentice or other person shipped on the same footing as a European seaman, nine superficial feet if the place be not less than six feet in height from deck to deck; or fifty-four cubic feet if the height from deck to deck be less than six feet.

to lascars or native seamen.

2.—For each lascar or native seaman or other person shipped on the same footing as a lascar, four superficial feet; and if the place allotted be under the top-gallant forecastle, such forecastle deck shall be not less than four feet six inches above the one below it.

Place to be kept clear.

Every such place shall be kept free from stores or goods of any kind, not being the personal property of the crew in use during the voyage; and if any such place in any ship is not in the whole sufficiently large to give such space for each seaman and apprentice as hereinbefore required, or is not properly caulked and in all other respects securely and properly constructed and well ventilated, the owner shall, for every such failure to comply with the provisions of this section, incur a penalty not exceeding two hundred rupees; and if any such space as aforesaid is not kept free from goods and stores as aforesaid, the master shall, for every such failure to comply with the provisions of this section, incur a penalty not exceeding one hundred rupees.[c]

Penalty if place be not properly constructed.

Penalty for not keeping space clear.

Shipping master, &c., may enter on board any ship

71. The shipping-master at any port in India, by himself or his deputy, may enter at any time on board of any ship upon which seamen have been shipped at such port, and inspect the provisions and water provided for the

[a] 17 & 18 Vic., c 104, s. 225 [b] 17 & 18 Vic., c. 104, s. 228. [c] 17 & 18 Vic., c. 104, s. 231.

and inspect provisions, &c.

use of the crew, and the medicines and appliances and the accommodation for seamen prescribed by this Act or by the Merchant Shipping Act, 1854.

Procedure if provisions, &c., are found to be bad.

If on inspection the provisions or water are found to be of bad quality and unfit for use, or to be deficient in quantity, the shipping-master shall proceed as provided in section 64 of this Act, and the penalty prescribed in the said section shall be incurred by any default of the master of the ship in respect of such provisions or water.

POWER OF MAKING COMPLAINTS.

Seamen to be allowed to go ashore to make complaint to a Justice.

72. If any seaman or apprentice, whilst on board any ship, states to the master that he desires to make complaint to a Magistrate against the master or any of the crew, the said master shall, if the ship is then at a place where there is a Magistrate, so soon as the service of the ship will permit, and if the ship is not then at such a place, so soon after her first arrival at such a place as the service of the ship will permit, allow such seaman to go ashore, or send him ashore in proper custody, so that he may be enabled to make such complaint, and shall, in default, incur a penalty not exceeding one hundred rupees.[a]

PROTECTION OF SEAMEN FROM IMPOSITION.

Sale of and charge upon wages to be invalid.

73. No wages due or accruing to any seamen or apprentice shall be subject to attachment from any Court; and every payment of wages to a seaman shall be valid in law, notwithstanding any previous sale or assignment of such wages or of any incumbrance thereon; and no assignment or sale of such wages, or of salvage made prior to the accruing thereof, shall bind the party making the same; and no power-of-attorney or authority for the receipt of any such wages or salvage shall be irrevocable.[b]

Debt exceeding three rupees when recoverable.

74. No debt exceeding in amount three rupees incurred by any seaman after he has engaged to serve, shall be recoverable until the service agreed for is concluded.[c]

Penalty for overcharges by lodging-house keepers.

75. If any person demands or receives from any seaman or apprentice payment in respect of his board or lodging in the house of such person for a longer period than such seaman or apprentice has actually resided or boarded therein, he shall incur a penalty not exceeding one hundred rupees.[d]

Penalty for detaining seamen's effects.

76. If any person receives or takes into his possession or under his control any monies, documents, or effects of any seaman or apprentice, and does not return the same or pay the value thereof when required by such seaman or apprentice, subject to such deduction as may be justly due to him from such seaman or apprentice in respect of board or lodging or otherwise, or absconds

[a] 17 & 18 Vic., c. 104, s. 232.
[b] 17 & 18 Vic., c. 104, s. 233.
[c] 17 & 18 Vic., c. 104, s. 234.
[d] 17 & 18 Vic., c. 104, s. 235.

therewith, he shall incur a penalty not exceeding one hundred rupees; and any Magistrate may, besides inflicting such penalty by summary order, direct the amount or value of such monies, documents, or effects, subject to such deduction as aforesaid, to be forthwith paid to such seaman or apprentice.[a]

Persons not to go on board before the final arrival of ship, without permission.

77. Every person who, not being in the service of Her Majesty and not being duly authorized by law for the purpose, goes on board any ship about to arrive at the place of her destination before her actual arrival at the place of her discharge, without the permission of the master, shall for every such offence incur a penalty not exceeding two hundred rupees; and the master or person in charge of such ship may take any such person so going on board as aforesaid into custody, and deliver him up forthwith to any police officer, to be by him taken before a Magistrate to be dealt with according to the provisions of this Act.[b]

Penalty for solicitations by lodging-house keepers.

78. If, within twenty-four hours after the arrival of any ship at any port in India, any person then being on board such ship solicits any seaman to become a lodger at the house of any person letting lodgings for hire, or takes out of such ship any effects of any seaman, except under his personal direction and with the permission of the master, he shall for every such offence incur a penalty not exceeding fifty rupees.[c]

DISCIPLINE.

Penalty for misconduct endangering ship, or life or limb.

79. Any master of, or any seaman or apprentice belonging to any ship registered at, trading with, or being at any port or place in India, who by wilful breach of duty, or by neglect of duty, or by reason of drunkenness, does any act tending to the immediate loss, destruction, or serious damage of such ship, or tending immediately to endanger the life or limb of any person belonging to or on board of such ship, or who by wilful breach of duty, or by neglect of duty, or by reason of drunkenness, refuses or omits to do any lawful act proper and requisite to be done by him for preserving such ship from immediate loss, destruction, or serious damage, or for preserving any person belonging to or on board of such ship from immediate danger to life or limb, shall for every such offence be liable to imprisonment, with or without hard labour, for a term not exceeding two years.[d]

Admiralty Court in India may in certain cases remove

80. Any Court having admiralty jurisdiction in India may, upon application by the owner of any ship being within the jurisdiction of such Court, or by the part owner or consignee, or by the agent of the owner, or by any

[a] 17 & 18 Vic., c. 104, s. 236.
[b] 17 & 18 Vic., c. 104, s. 237.
[c] 17 & 18 Vic., c. 104, s. 238. The powers conferred by s. 80 of Act No. I of 1859 are saved by Act No. IV of 1875, s. 23.
[d] 17 & 18 Vic., c. 104, s. 239: *Reg.* v. *Gardner*, 1 F. & F. 669

master and appoint a new master.

certificated mate, or by one-third or more of the crew of such ship, and upon proof on oath to the satisfaction of such Court that the removal of the master of such ship is necessary, remove him accordingly; and may also, with the consent of the owner or his agent, or the consignee of the ship, or if there is no owner or agent of the owner or consignee of the ship within the jurisdiction of the Court, then without such consent, appoint a new master in his stead, and may also make such order and may require such security in respect of costs in the matter as it thinks fit.

81, 82. [*Repealed by Act No. XV of* 1863. *Replaced by Act No. IV of* 1875.]

Offences of seamen and apprentices, and their punishments.

83. Whenever any seaman[b] who has been lawfully engaged, or any apprentice to the sea-service, commits any of the following offences, he shall be liable to be punished summarily as follows; (that is to say)—

Desertion.

1.—For desertion[c] he shall be liable to imprisonment for any period not exceeding twelve weeks, with or without hard labour, and also to forfeit all or any part of the clothes and effects he leaves on board, and all or any part of the wages or emoluments which he has then earned, and also, if such desertion takes place at any port or place not in India, at the discretion of the Court, to forfeit all or any part of the wages or emoluments he may earn in any other ship in which he may be employed until his next return to any port or place in India, and to satisfy any excess of wages paid by the master or owner of the ship from which he deserts, to any substitute engaged in his place at a higher rate of wages than the rate stipulated to be paid to him.

Neglecting or refusing to join, or to proceed to sea; absence within twenty-four hours before sailing, and absence without leave.

2.—For neglecting or refusing, without reasonable cause, to join his ship or to proceed to sea in his ship, or for absence without leave at any time within twenty-four hours of the ship's sailing from any port either at the commencement or during the progress of any voyage, or for absence at any time without leave and without sufficient reason from his ship or from his duty not amounting to desertion or not treated as such by the master, he shall be liable to imprisonment for any period not exceeding ten weeks, with or without hard labour, and also, at the discretion of the Court, to forfeit out of his wages a sum not exceeding the amount of two days' pay, and in addition for every twenty-four hours of absence either a sum not exceeding six days' pay, or any expenses which have been properly incurred in hiring a substitute.

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[a] 17 & 18 Vic., c. 104, s. 240.

[b] See *infra*, s. 118.

[c] Abandoning the ship *sine animo revertendi*, and without just cause, *The Two Sisters*, 2 W. Rob. 125.

3.—For quitting the ship without leave after her arrival at her port of delivery and before she is placed in security, he shall be liable to forfeit out of his wages a sum not exceeding one month's pay. Quitting without leave before ship is secured.

4.—For wilful disobedience to any lawful command he shall be liable to imprisonment for any period not exceeding four weeks, with or without hard labour, and also, at the discretion of the Court, to forfeit out of his wages a sum not exceeding two days' pay. Act of disobedience.

5.—For continued wilful disobedience to lawful commands, or continued wilful neglect of duty, he shall be liable to imprisonment for any period not exceeding twelve weeks, with or without hard labour, and also at the discretion of the Court,[a] to forfeit for every twenty-four hours' continuance of such disobedience or neglect, either a sum not exceeding six days' pay, or any expenses which have been properly incurred in hiring a substitute. Continued disobedience.

6.—For assaulting any master or mate he shall be liable to imprisonment for any period not exceeding twelve weeks, with or without hard labour. Assault on officers.

7.—For combining with any other or others of the crew to disobey lawful commands, or to neglect duty, or to impede the navigation of the ship or the progress of the voyage, he shall be liable to imprisonment for any period not exceeding twelve weeks, with or without hard labour. Combining to disobey.

8.—For wilfully damaging the ship, or embezzling, or wilfully damaging any of her stores or cargo, he shall be liable to forfeit out of his wages a sum equal in amount to the loss thereby sustained, and also, at the discretion of the Court, to imprisonment for any period not exceeding twelve weeks, with or without hard labour. Wilful damage and embezzlement.

9.—For any act of smuggling of which he is convicted, and whereby loss or damage is occasioned to the master or owner, he shall be liable to pay to such master or owner such a sum as is sufficient to reimburse the master or owner for such loss or damage; and the whole or a proportionate part of his wages may be retained in satisfaction or on account of such liability, without prejudice to any further remedy.[b] Act of smuggling causing loss to owner.

84. Upon the commission of any of the offences enumerated in the last preceding section, an entry thereof shall be made in the official log-book, and shall be signed by the master and also by the mate or one of the crew; and the offender, if still in the ship, shall, before the next subsequent arrival of the ship at any port, or if she is at the time in port before her departure therefrom, either be furnished with a copy of such entry or have the same read over distinctly and audibly to him, and may thereupon make such reply thereto as he thinks fit; and a statement that a copy of the said entry has Entry of offences to be made in official log, and to be read over, or a copy given to the offender, and his reply, if any, to be also entered.

[a] 4 Mad., Rulings xxiii.

[b] 17 & 18 Vic., c 104, s. 243.

been so furnished, or that the same has been so read over as aforesaid, and the reply (if any) made by the offender, shall likewise be entered and signed in manner aforesaid; and in any subsequent legal proceeding, the entries hereinbefore required shall, if practicable, be produced or proved, and in default of such production or proof, the Court hearing the case may, at its discretion, refuse to receive evidence of the offence.[a]

Seamen whom masters of ships are compelled to convey, and persons going in ships without leave, to be subject to penalties for breach of discipline.

85. Every seafaring person whom the master of any ship is, under the authority of this Act or any law, compelled to take on board and convey, and every person who goes to sea in any ship without the consent of the master or owner or other person entitled to give such consent, shall, so long as he remains in such ship, be subject to the same laws and regulations for preserving discipline, and to the same penalties and punishments for offences constituting or tending to a breach of discipline, to which he would be subject if he were a member of the crew and had signed the agreement.[b]

Master or owner may apprehend deserters without warrant.

86. Whenever, either at the commencement or during the progress of any voyage, any seaman or apprentice neglects or refuses to join, or deserts from or refuses to proceed to sea in any ship in which he is duly engaged to serve, or is found otherwise absenting himself therefrom without leave, the master or any mate, or the owner, ship's husband, or consignee, may, with or without the assistance of police officers who are hereby directed to give the same if required, apprehend him without first procuring a warrant; and thereupon in any case, and shall, in case he so requires and it is practicable, convey him before some Court capable of taking cognizance of the matter, to be dealt with according to law; and may, for the purpose of conveying him before such Court, detain him in custody for a period not exceeding twenty-four hours or such shorter time as may be necessary, or may, if he does not so require, or if there is no such Court at or near the place, at once convey him on board;

and if any such apprehension appears to the Court before which the case is brought, to have been made on improper or on insufficient grounds, the master, mate, owner, ship's husband, or consignee, who makes the same or causes the same to be made, shall incur a penalty not exceeding two hundred rupees; but such penalty, if inflicted, shall be a bar to any action for false imprisonment in respect of such apprehension.[c]

Deserters may be sent on board in lieu of being imprisoned.

87. Whenever any seaman or apprentice is brought before any Court on the ground of his having neglected or refused to join or to proceed to sea in any ship in which he is engaged to serve, or of having deserted or otherwise

[a] 17 & 18 Vic., c. 104, s. 244. [b] 17 & 18 Vic., c. 104, s. 245. [c] 17 & 18 Vic., c. 104, s. 246.

absented himself therefrom without leave, such Court may, if the master or the owner or his agent so requires, instead of committing the offender to prison, cause him to be conveyed on board for the purpose of proceeding on the voyage, or deliver him to the master or any mate of the ship, or the owner or his agent, to be by them so conveyed, and may in such case order any costs and expenses properly incurred by or on behalf of the master or owner by reason of the offence, to be paid by the offender, and if necessary to be deducted from any wages which he has then earned, or which by virtue of his then existing engagement he may afterwards earn.[a]

Seamen imprisoned for desertion or breach of discipline may be sent on board before termination of sentence.

88. If any seaman or apprentice is imprisoned on the ground of his having neglected or refused to join or to proceed to sea in any ship in which he is engaged to serve, or of having deserted or otherwise absented himself therefrom without leave, or of his having committed any other breach of discipline, and if during such imprisonment and before his engagement is at an end his services are required on board his ship, any Magistrate may, at the request of the master or of the owner or his agent, cause such seaman or apprentice to be conveyed on board his said ship for the purpose of proceeding on the voyage, or to be delivered to the master or any mate of the ship or to the owner or his agent, to be by them so conveyed, notwithstanding that the termination of the period for which he was sentenced to imprisonment has not arrived.[b]

Entries and certificates of desertion abroad to be copied, sent home, and admitted in evidence.

89. In all cases of desertion from any ship registered at a port or place in India while such ship is at any place out of India, the master shall produce the entry of such desertion in the official log-book to the person or persons required by the Merchant Shipping Act, 1854, to endorse on the agreement a certificate of such desertion; and such person or persons shall thereupon make and certify a copy of such entry and also a copy of the said certificate of desertion;

the master shall forthwith transmit such copies to the shipping-master at the port where such seaman was engaged, who shall, if required, cause the same to be produced in any legal proceeding; and such copies, if purporting to be so made and certified as aforesaid, shall in any legal proceeding relating to such desertion be received as evidence of the entries therein appearing.[c]

Facilities for proving desertion so far as concerns forfeiture of wages.

90. Whenever a question arises whether the wages of any seaman or apprentice are forfeited for desertion, it shall be sufficient for the party insisting on the forfeiture to show that such seaman or apprentice was duly engaged in or that he belonged to the ship from which he is alleged to have

[a] 17 & 18 Vic., c. 104, s. 247. [b] 17 & 18 Vic., c. 104, s. 248. [c] 17 & 18 Vic., c. 104, s. 249.

deserted, and that he quitted such ship before the completion of the voyage or engagement, or if such voyage was to terminate at any port or place in India, and the ship has not returned, that he is absent from her, and that an entry of the desertion has been duly made in the official log-book; and thereupon the desertion shall, so far as relates to any forfeiture of wages or emoluments under the provisions hereinbefore contained, be deemed to be proved, unless the seaman or apprentice can produce a proper certificate of discharge or can otherwise show to the satisfaction of the Court that he had sufficient reasons for leaving his ship.[a]

Costs of procuring imprisonment may, to the extent of thirty rupees, be deducted from wages.

91. Whenever in any proceeding relating to seamen's wages it is shown that any seaman or apprentice has in the course of the voyage been convicted of any offence by any competent tribunal and rightfully punished therefor by imprisonment or otherwise, the Court hearing the case may direct a part of the wages due to such seaman, not exceeding thirty rupees, to be applied in reimbursing any costs properly incurred by the master in procuring such conviction and punishment.[b]

Amount of forfeiture how to be ascertained when seamen contract for the voyage.

92. Whenever any seaman contracts for wages by the voyage or by the run or by the share, and not by the month or other stated period of time, the amount of forfeiture to be incurred under this Act shall be taken to be an amount bearing the same proportion to the whole wages or share as the period hereinbefore mentioned in fixing the amount of such forfeiture (as the case may be) bears to the whole time spent in the voyage; and if the whole time spent in the voyage does not exceed the period for which the pay is to be forfeited, the forfeiture shall extend to the whole wages or share.[c]

Application of forfeitures.

93. All clothes, effects, wages, and emoluments which under the provisions hereinbefore contained are forfeited for desertion, shall be applied in the first instance in or towards the reimbursement of the expenses occasioned by such desertion to the master or owner of the ship from which the desertion has taken place, and may, if earned subsequently to the desertion, be recovered by such master or by the owner or his agent in the same manner as the deserter might have recovered the same if they had not been forfeited; and in any legal proceeding relating to such wages, the Court may order the same to be paid accordingly; and, subject to such reimbursement, the same shall be paid into the public treasury and carried to the account of Government; and in all other cases of forfeiture of wages under the provisions hereinbefore contained, the forfeiture shall, in the absence of any specific directions to the contrary, be for the benefit of the master or owner by whom the wages are payable.[d]

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[a] 17 & 18 Vic., c. 104, s. 250.
[b] 17 & 18 Vic., c. 104, s. 251.
[c] 17 & 18 Vic., c. 104, s. 252.
[d] 17 & 18 Vic., c. 104, s. 253.

94. Any question concerning the forfeiture of or deductions from the wages of any seaman or apprentice, may be determined in any proceeding lawfully instituted with respect to such wages, notwithstanding that the offence in respect of which such question arises, though hereby made punishable by imprisonment as well as forfeiture, has not been made the subject of any criminal proceeding.[a]

Questions of forfeitures may be decided in suits for wages.

95. If any seaman, on or before being engaged, wilfully and fraudulently makes a false statement of the name of his last ship, or last alleged ship, or wilfully and fraudulently makes a false statement of his own name, he shall incur a penalty not exceeding fifty rupees, and such penalty may be deducted from any wages he may earn by virtue of such engagement as aforesaid, and shall, subject to reimbursement of the loss and expenses (if any) occasioned by any previous desertion, be paid and applied in the same manner as other penalties payable under this Act.[b]

Penalty for false statement as to last ship or name.

96. Whenever any seaman commits an act of misconduct for which his agreement imposes a fine, and which it is intended to punish by enforcing such fine, an entry thereof shall be made in the official log-book, and a copy of such entry shall be furnished or the same shall be read over to the offender, and an entry of such reading over, and of the reply (if any) made by the offender shall be made, in the manner and subject to the conditions hereinbefore specified with respect to the offences against discipline specified in and punishable under this Act;

Fines to be deducted from wages, and paid to shipping-master.

and such fine shall be deducted and paid over as follows (that is to say), if the offender is discharged at any port or place in India, and the offence, and such entries in respect thereof as aforesaid, are proved, in the case of a foreign-going ship to the satisfaction of the shipping-master before whom the offender is discharged, and in the case of a home-trade ship to the satisfaction of the shipping-master at or nearest to the place at which the crew is discharged, the master or owner shall deduct such fine from the wages of the offender and pay the same over to such shipping-master;

and if before the final discharge of the crew in India, any such offender as aforesaid enters into any of Her Majesty's ships or is discharged at any place not in India, and the offence and such entries as aforesaid are proved to the satisfaction of the officer in command of the ship into which he so enters, or of the consular officer, officer of customs, or other person by whose sanction he is so discharged, the fine shall thereupon be deducted as aforesaid, and an entry of such deduction shall then be made in the official log-book (if any) and signed by such officer or other person; and on the return of the ship to India, the master or

[a] 17 & 18 Vic., c. 104, s. 254.

[b] 17 & 18 Vic., c. 104, s. 255

owner shall pay over such fine, in the case of foreign-going ships to the shipping-master before whom the crew is discharged, and in the case of home-trade ships to the shipping-master at or nearest to the place at which the crew is discharged;

and if any master or owner neglects or refuses to pay over any such fine in manner aforesaid, he shall for each such offence incur a penalty not exceeding six times the amount of the fine retained by him: provided that no act of misconduct for which any such fine as aforesaid has been inflicted and paid shall be otherwise punished under the provisions of this Act.[a]

Penalty for enticing to desert and harbouring deserters.

97. Every person who by any means whatever persuades or attempts to persuade any seaman or apprentice to neglect or refuse to join or proceed to sea in or to desert from his ship, or otherwise to absent himself from his duty, shall for each such offence in respect of each such seaman or apprentice incur a penalty not exceeding one hundred rupees; and every person who wilfully harbours or secretes any seaman or apprentice who has deserted from his ship, or who has wilfully neglected or refused to join or has deserted from his ship, knowing or having reason to believe such seaman or apprentice to have so done, shall for every such seaman or apprentice so harboured or secreted, incur a penalty not exceeding one hundred rupees.[b]

Penalty for obtaining passage surreptitiously.

98. Any person who secretes himself and goes to sea in any ship without the consent of either the owner, consignee, or master, or of a mate, or of any person in charge of such ship, or of any other person entitled to give such consent, shall incur a penalty not exceeding two hundred rupees, or be liable to imprisonment, with or without hard labour, for any period not exceeding four weeks.[c]

On change of masters, documents hereby required to be handed over to successor.

99. If during the progress of a voyage the master of any ship registered at any port or place in India, is superseded or for any other reason quits the ship and is succeeded in the command by some other person, he shall deliver to his successor the various documents relating to the navigation of the ship and to the crew thereof which are in his custody; and shall in default incur a penalty not exceeding one thousand rupees; and such successor shall, immediately on assuming the command of the ship, enter in the official log a list of the documents so delivered to him.[d]

Enquiries into Wrecks.

100,101,102. [*Repealed and replaced by Act No. IV of* 1875.]

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[a] 17 & 18 Vic., c. 104, s. 256.
[b] 17 & 18 Vic., c. 104, s. 257.
[c] 17 & 18 Vic., c. 104, s. 258.
[d] 17 & 18 Vic., c. 104, s. 259.

Official Logs.

103. An official log-book of every ship registered at any port or place in India, except home-trade ships of a burden not exceeding three hundred tons, shall be kept in a form sanctioned by the Local Government; and such official log may, at the discretion of the master or owner, either be kept distinct from the ordinary ship's log, or united therewith, so that in all cases all the blanks in the official log be duly filled up.[a]

Official logs to be kept in forms sanctioned by Local Government.

104. Every entry in every official log shall be made as soon as possible after the occurrence to which it relates, and if not made on the same day as the occurrence to which it relates, shall be made and dated so as to show the date of the occurrence and of the entry respecting it; and in no case shall any entry therein in respect of any occurrence happening previously to the arrival of the ship at her final port of discharge be made more than twenty-four hours after such arrival.[b]

Entries to be made in due time.

105. Every master of a ship for which an official log-book is hereby required shall make or cause to be made therein entries of the following matters (that is to say)—

Entries required in official log.

1. Every legal conviction of any member of his crew and the punishment inflicted:

Convictions.

2. Every offence committed by any member of his crew for which it is intended to prosecute, or to enforce a forfeiture, or to exact a fine, together with such statement concerning the reading over such entry and concerning the reply (if any) made to the charge, as hereinbefore[c] required:

Offences.

3. Every offence for which punishment is inflicted on board and the punishment inflicted:

Punishments.

4. A statement of the conduct, character, and qualifications of each of his crew, or a statement that he declines to give an opinion on such particulars:

Conduct, &c., of crew.

5. Every case of illness or injury happening to any member of the crew, with the nature thereof, and the medical treatment adopted (if any):

Illness and injuries.

6. Every case of death happening on board, and of the cause thereof:

Deaths.

7. Every birth happening on board, with the sex of the infant and the names of the parents:

Births.

8. Every marriage taking place on board, with the names and ages of the parties:

Marriages.

9. The name of every seaman or apprentice who ceases to be a member of the crew otherwise than by death, with the place, time, manner, and cause thereof:

Quitting ship.

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[a] 17 & 18 Vic., c. 104, s. 280. [b] 17 & 18 Vic., c. 104, s. 281.
[c] See sec. 84.

Wages of men entering Navy.

10. The amount of wages due to any seaman who enters Her Majesty's service during the voyage:

Wages of deceased seamen.

11. The wages due to any seaman or apprentice who dies during the voyage, and the gross amount of all deductions to be made therefrom:

Sale of deceased men's effects.

12. The sale of the effects of any seaman or apprentice who dies during the voyage, including a statement of each article sold and of the sum received for it:

Collisions.

13. Every collision with any other ship and the circumstances under which the same occurred.[a]

Entries how to be signed.

106. The entries hereby required to be made in official log-books shall be signed as follows (that is to say), every such entry shall be signed by the master and by the mate or some other of the crew, and every entry of illness, injury, death, or birth shall be also signed by the surgeon or medical practitioner on board (if any); and every entry of wages due to, or of the sale of the effects of, any seaman or apprentice who dies shall be signed by the master and by the mate and some other member of the crew, and every entry of wages due to any seaman who enters Her Majesty's service shall be signed by the master and by the seaman, or by the officer authorized to receive the seaman into such service.[b]

Penalties in respect of official logs.

107. The following offences in respect of official log-books shall be punishable as hereinafter mentioned (that is to say)—

1. If in any case an official log-book is not kept in the manner hereby required, or if any entry hereby directed to be made in any such log-book is not made at the time and in the manner hereby directed, the master shall for each such offence incur the specific penalty herein mentioned in respect thereof, or where there is no such specific penalty, a penalty not exceeding fifty rupees.

2. Every person who makes or procures to be made or assists in making any entry in an official log-book, in respect of any occurrence happening previously to the arrival of the ship at her final port of discharge in India, more than twenty-four hours after such arrival, shall for each such offence incur a penalty not exceeding three hundred rupees.

3. Every person who wilfully destroys or mutilates or renders illegible any entry in any official log-book, or who wilfully makes or procures to be made or assists in making any false or fraudulent entry or omission in any such log-book, shall for each such offence be liable to imprisonment, with or without hard labour, for a term not exceeding one year.[c]

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[a] 17 & 18 Vic., c. 104, s. 282. [b] 17 & 18 Vic., c. 104, s. 283. [c] 17 & 18 Vic., c. 104, s. 284.

108. All entries made in any official log-book as hereinbefore directed shall be received in evidence in any proceeding in any Court of justice, subject to all just exceptions.[a]

Entries in official logs to be received in evidence.

109. The master of every foreign-going ship shall, within forty-eight hours after the ship's arrival at her final port of destination in India, or upon the discharge of the crew, whichever first happens, deliver to the shipping-master before whom the crew is discharged, the official log-book of the voyage; and the master or owner of every home-trade ship of a burden exceeding three hundred tons shall, within twenty-one days after the thirtieth day of June and the thirty-first day of December in every year, transmit or deliver to some shipping-master in India the official log-book for the preceding half year; and every master or owner who refuses or neglects to deliver his official log-book, as hereby required, shall be subject to a penalty not exceeding two hundred rupees.[b]

Official logs to be delivered to shipping-master on ship's arrival at port of destination in India.

110. If any ship ceases, by reason of transfer of ownership or change of employment, to fall within the operation of section 103 of this Act, the master or owner thereof shall, if such ship is then in any port in India, within one month, and if she is elsewhere, within six months, deliver or transmit to the shipping-master at the port to which the ship belonged, the official log-book duly made out to the time at which she ceased to be within such operation, and in default shall for each offence incur a penalty not exceeding one hundred rupees; and if any ship is lost or abandoned, the master or owner thereof shall, if practicable, and as soon as possible, deliver or transmit to the shipping-master at the port to which the ship belonged, the official log-book (if any) duly made out to the time of such loss or abandonment, and in default shall for each offence incur a penalty not exceeding one hundred rupees.[c]

Official logs to be transmitted to shipping-master in case of transfer of ship and in case of loss.

Procedure, &c.

111. Whenever, in the course of any legal proceedings instituted at any port or place in India before any Judge or Magistrate or before any person authorized by law or by consent of parties to receive evidence, the testimony of any witness[d] is required in relation to the subject-matter of such proceeding, any deposition that such witness may have previously made in relation to the same subject-matter before any Justice or Magistrate in Her Majesty's dominions (including all parts of India other than those subject to the same Local Government as the port or place where such proceedings are instituted), or any British consular officer elsewhere, shall, if authenticated by the signature of the

Depositions to be received in evidence when witnesses cannot be produced.

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[a] 17 & 18 Vic., c. 104, s. 285. [b] 17 & 18 Vic., c. 104, s. 286. [c] 17 & 18 Vic., c. 104, s. 287.
[d] Being a merchant-seaman, *Reg.* v. *Ramcomul Mitter*, 1 Hyde, 195, per Norman J.

Justice, Magistrate, or consular officer, be admissible in evidence on due proof that such witness cannot be found within the jurisdiction of the Court in which such proceedings are instituted.

Proviso.

Provided that, if the proceeding is criminal, such deposition shall not be admissible unless it was made in the presence of the person accused and the fact that it was so made is certified by the Justice, Magistrate, or consular officer.

It shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition; and in any criminal proceeding, such certificate as aforesaid shall, unless the contrary is proved, be sufficient evidence of the accused having been present in manner thereby certified.

Adjudication of offences and recovery of penalties.

112. All offences under this Act, made punishable by any penalty, may be prosecuted summarily before a Magistrate or any person exercising the powers of a Magistrate. The provisions of Act XIII of 1856,[a] relating to the adjudication of fines and penalties and the enforcing payment thereof, shall apply to penalties imposed under this Act in the towns of Calcutta, Madras and Bombay.

Wages, penalties, &c., payable by master or owner may be levied by distress of ship.

113. In all cases where any Court or Magistrate has power to make an order directing payment to be made of any seaman's wages, penalties, or other sums of money, then if the party so directed to pay the same is the master or owner of a ship and the same is not paid at the time and in manner prescribed in the order, the Court or Magistrate who made the order may, in addition to any other powers which such Court or Magistrate may have for the purpose of compelling payment, direct the amount remaining unpaid to be levied by distress and sale of the said ship, her tackle, furniture and apparel.

Miscellaneous.

Act not to extend to certain ships.

114. Nothing in this Act shall extend to any ship belonging to or in the service of Her Majesty, or to any ship belonging to any foreign Prince or State; and nothing in this Act, except as otherwise hereinafter provided, shall extend to any ship belonging to the subjects of any foreign Prince or State.

Engagements between masters of foreign ships and lascars or native seamen.

115. When the master of a foreign ship being at any port in India engages any lascar or other native seaman to proceed to any port out of India, he shall enter into an agreement with such seaman, and the agreement shall be made before a shipping-master in the manner hereinbefore provided for the making of agreements in the case of foreign-going ships, and all the provi-

[a] Repealed, as to Calcutta, by Ben. Act IV of 1866, s. 2, and as to Madras, by Mad. Act VIII of 1867, s. 81.

sions of sections 21[a] and 22 of this Act, respecting the form of such agreements and the stipulations to be contained in them and the making and signing of the same, shall be applicable to the engagement of such seaman; and the master of such foreign ship shall give to the shipping-master a bond with the security of some approved person resident in India for an amount calculated at the rate of one hundred rupees for every such seaman and conditioned for the due performance of the said agreement and stipulations.

116. The fees prescribed in section 6 of this Act shall be payable in respect of every such engagement, and deductions from the wages of seamen so engaged may be made to the extent and in the manner allowed by the said section. Fees payable in respect of such engagements.

117. If any lascar or other native seaman is engaged by the master of any foreign ship otherwise than is allowed in the two last preceding sections, such master shall be liable to a penalty of one hundred rupees for every such seaman so engaged. It shall be lawful for the shipping-master, by himself or his deputy, to enter on board any foreign ship upon which he shall have reason to believe that any such seaman has been shipped, and the provisions of section 30 of this Act shall be applicable in respect of every such ship. Penalty for master of foreign ship illegally engaging native seaman. Power to board suspected ship.

118. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that is to say) :— Interpretation-clause.

the word "India" shall mean the territories which are or may become vested in Her Majesty by the Statute 21 & 22 Vic., c. 106, entitled "An Act for the better Government of India; "India."

the expression "Local Government" shall mean the person or persons for the time being immediately administering the executive government of any portion of the said territories; "Local Government."

the expression "Home-trade ship" shall include every ship employed in trading between any ports of the said territories; or between any port of the said territories and any port or place on the Continent of India or in the Island of Ceylon; "Home-trade ship."

the expression "Foreign-going ship" shall include every ship employed in trading between any port of the said territories and any port or place not in the said territories nor on the Continent of India nor in the Island of Ceylon; "Foreign-going ship."

the word "master" shall include every person (except a pilot) having command or charge of any ship; "Master."

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[a] Repealed by Act No. XV of 1863. See Act No. IV of 1875, ss. 24, 25, which sections are to be taken as part of Act No. I of 1859 (Act IV of 1875, s. 28).

"Seaman" the word "seaman" shall include every person (except masters, pilots, and apprentices) employed or engaged in any capacity on board any ship;

Number. words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number;

Gender. words importing the masculine gender shall include females;

"Person." the word "person" shall include a corporation.

TABLE A (*see section* 5.)

Fees to be charged for matters transacted at shipping-offices.

1. Engagement or discharge of crews.

	Rs.	As.	P.
In ships under 100 tons ...	3	0	0
From 100 to 200 „ ...	7	0	0
200 to 300 „ ...	10	0	0
300 to 400 „ ...	12	8	0
400 to 500 „ ..	15	0	0
500 to 600 „ ...	17	8	0
600 to 700 „ ..	20	0	0
700 to 800 „ ...	22	8	0
800 to 900 „ ...	25	0	0
900 to 1,000 „ ...	27	8	0
above 1,000 „ ...	30	0	0

and so on for ships of larger tonnage, adding for every one hundred tons above one thousand, two rupees and eight annas.

2. Engagement or discharge of seamen separately, one rupee for each seaman.

TABLE B (*see section* 6.)

Sums to be deducted from wages by way of partial repayment of fees in Table A.

1. In respect of engagements and discharges of crews, upon each engagement and each discharge

	Rs.	As.	P.
from wages of any mate, purser, engineer, surgeon, carpenter, or steward	0	12	0
from wages of all others except apprentices	0	8	0

2. In respect of engagements and discharges of seamen, separately, upon each engagement and each discharge... ... 0 8 0

ACT No. III OF 1859.[a]

Received the Governor General's assent on the 25th January 1859.

An Act for conferring Civil Jurisdiction in certain cases upon Cantonment Joint Magistrates, and for constituting those Officers Registers of Deeds.

WHEREAS it is expedient that Cantonment Joint Magistrates should be invested with civil jurisdiction in certain cases within the local limits of their criminal jurisdiction, and that they should also be appointed registers of deeds within the same limits; It is enacted as follows:— Preamble.

1. It shall be competent to the Governor General in Council and to the Executive Government of any presidency or place to invest the Joint Magistrate of any military cantonment, bázár or station, within the limits of their respective governments, with civil jurisdiction. Government may invest Cantonment Joint Magistrates with civil jurisdiction.

Every Joint Magistrate so invested shall have power to hear and determine actions of debt and other personal actions in which the value in question shall not exceed the sum of two hundred rupees and which shall not involve any dispute of caste or any right of real property, against any person who at the time when the cause of action arose and at the time of the institution of the suit shall have been or shall be subject to the Articles of War for the Native Army or residing[b] or carrying on trade or business within the limits of such military cantonment, bázár or station, and not subject to any Articles of War made by Her Majesty.

2. Whenever the Joint Magistrate of any military cantonment, bázár or station shall be invested with civil jurisdiction under the provisions of the preceding section, and so long as he shall remain so invested, so much of Act XI of 1841 as authorizes the commanding officers of stations or cantonments to convene military Courts of Requests for the trial of actions of debt and other personal actions as aforesaid, shall be suspended within the limits of such cantonment, bázár or station.[c] Part of Act XI of 1841 suspended in cantonments where Joint Magistrates are so invested.

3. Whenever in either of the presidencies of Madras or Bombay an officer shall be invested with civil jurisdiction as aforesaid, and so long as he shall remain so invested, the rules for the trial of small suits in military bázárs at cantonments and stations occupied by the troops of those presiden- Also rules in force in Madras and Bombay for trial of small suits in military bázárs.

[a] Declared to apply to the whole of British India, except the Scheduled Districts, Act No. XV of 1874. Jurisdiction conferred under Act No. III of 1859 is saved by Act No. XI of 1865, s. 12.

[b] This includes an European British subject, *Shápurji Jehángir* v. *Morgan*, 4 Bomb., A. C. J., 187.

[c] See Act No. XI of 1865, section 48.

cies respectively, shall cease to have effect within the jurisdiction of such officer.

Certain persons to be sued only before Cantonment Joint Magistrates.

4. Whenever the Joint Magistrate of any military cantonment, bázár or station shall be invested with civil jurisdiction under the provisions of this Act, no person amenable to the Articles of War for the Native Army, who may be liable to be sued before such Joint Magistrate for any cause of action cognizable by him, shall be sued elsewhere.

Saving of certain rules in force in Madras.

5. Provided that nothing in the preceding sections shall be held to alter or affect the rules in force in the Madras presidency for the trial by panchâyat of suits against military persons belonging to that presidency.

Trader not to recover debt unless registered as a military bázár-man.

6. No person carrying on trade or business within the limits of any military cantonment, or who shall have carried on trade or business within any such limits, shall be allowed to recover in any Court held under this Act any debt contracted in the way of such trade or business or the loan of money within any such cantonment, by any person subject to the jurisdiction of such Court, unless the person seeking to recover the debt shall, at the time of contracting the same, have been registered as a military bázár-man within such cantonment.

Procedure in cases tried under this Act.

7. In cases instituted under the provisions of this Act, the plaintiff shall prefer his claim in writing to the Court of the Joint Magistrate having jurisdiction over the same, and if the defendant be a Native officer or soldier or a mustered camp-follower, the summons to appear and answer to the claim shall be transmitted, for the purpose of being served on the defendant, to the commanding officer of the corps or detachment to which such defendant may belong; and the commanding officer shall return the summons to the Joint Magistrate with the acknowledgment of the defendant endorsed thereon; or if the summons cannot be served, the reason of the non-service shall be stated.

In other respects the rules of procedure and all other rules contained in Act XI of 1841 *(for consolidating and amending the Regulations concerning Military Courts of Requests for Native Officers and Soldiers in the service of the East India Company)* shall be applicable to such cases, and to the execution of the decrees passed therein, so far as the same are applicable: provided that the decisions of the Joint Magistrate in cases cognizable by him under this Act, shall not be open to revision or appeal; and provided further that it shall not be necessary to publish in station-orders the decrees passed in such cases before they are carried into execution, and the Joint Magistrate passing the decree shall determine whether the execution shall be general or special, and shall proceed of his own authority with the execution.

No revision or appeal.

Execution of decrees.

8. If the claim of the plaintiff be dismissed, and it shall appear to the Joint Magistrate that the suit was groundless, and that there was no probable cause for instituting the same, it shall be competent to such Joint Magistrate to award against the plaintiff in favour of the defendant, such sum as he may consider a reasonable compensation to the defendant, for the loss of time and expense to which he may have been subjected by the institution of the suit against him, and to proceed to recover the amount so awarded under the rules applicable to execution of decrees passed under this Act.

Compensation may be awarded to a defendant if suit be groundless and instituted without probable cause.

THE CODE OF CIVIL PROCEDURE.

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SCHEDULES.

ACT No. VIII OF 1859.

Received the Governor-General's assent on the 22nd March 1859.

An Act for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter.

WHEREAS it is expedient to simplify the procedure of the Courts of Civil Judicature not established by Royal Charter; It is enacted as follows :— Preamble.

CHAPTER I.

OF THE JURISDICTION OF THE CIVIL COURTS.

1. The civil Courts shall take cognizance of all suits of a civil nature, with the exception of suits of which their cognizance is barred by any Act of Parliament, or by any Regulation of the Codes of Bengal, Madras and Bombay, respectively, or by any Act of the Governor General of India in Council. Civil Courts have cognizance of all suits unless specially barred.

2. The civil Courts shall not take cognizance of any suit brought on a cause of action which shall have been heard and determined by a Court of competent jurisdiction in a former suit between the same parties or between parties under whom they claim. Civil Courts not to take cognizance of suits previously heard and determined.

3. The judgments of the civil Courts shall not be subject to revision otherwise than by those Courts under the rules contained in this Act applicable to reviews of judgment and by the constituted Courts of appellate jurisdiction. Revision of judgments of the civil Courts.

4. No person whatever shall, by reason of place of birth, or by reason of descent, be in any civil proceeding whatever excepted from the jurisdiction of any of the civil Courts. No person excepted from jurisdiction by reason of place of birth or of descent.

Jurisdiction of civil Courts.

5. Subject to such pecuniary or other limitations as are or shall be prescribed by any law for the time being in force, the civil Courts of each grade shall receive, try, and determine all suits hereby declared to be cognizable by those Courts, if in the case of suits for land or other immoveable property such land or property shall be situate within the limits to which their respective jurisdictions may extend, and in all other cases if the cause of action shall have arisen, or the defendant at the time of the commencement of the suit shall dwell, or personally work for gain, within such limits.

Court in which suit to be instituted.

Transfer of suits

6. Every suit shall be instituted in the Court of the lowest grade competent to try it. But it shall be lawful for the District Court to withdraw any suit instituted in any Court subordinate to such District Court and to try such suit itself or to refer it for trial to any other Court subordinate to its authority and competent in respect of the value of the suit to try the same, whenever it may see sufficient cause for so doing. In like manner, the Sadr Court may order that the cognizance of any suit or appeal which may be instituted in any Court subordinate to such Sadr Court shall be transferred to any other Court subordinate to its authority and competent in respect of the value of the suit or appeal to try the same.

Suit to include the whole claim.

Relinquishment of part of claim.

7. Every suit shall include the whole of the claim arising out of the cause of action, but a plaintiff may relinquish any portion of his claim in order to bring the suit within the jurisdiction of any Court. If a plaintiff relinquish or omit to sue for any portion of his claim, a suit for the portion so relinquished or omitted shall not afterwards be entertained.

Joinder of causes of action in the same suit.

8. Causes of action by and against the same parties, and cognizable by the same Court, may be joined in the same suit, provided the entire claim in respect of the amount or value of the property in suit do not exceed the jurisdiction of such Court.

Court may in certain cases order separate trials of such causes of action.

9. If two or more causes of action be joined in one suit and the Court shall be of opinion that they cannot conveniently be tried together, the Court may order separate trials of such causes of action to be held.

Claims for land and for mesne profits, distinct causes of action.

10. A claim for the recovery of land and a claim for the mesne profits of such land shall be deemed to be distinct causes of action within the meaning of the two last preceding sections.

Suits for immoveable property situate within different jurisdictions of the same district.

11. If the suit be for land or other immoveable property situate within the limits of a single district, but within the jurisdiction of different Courts, the suit may be brought in the Court within the jurisdiction of which any portion of such land or other immoveable property is situate, provided the entire claim in respect of the value of the property in suit be cognizable by

such Court; but in such case the Court in which the suit is brought shall apply to the District Court for authority to proceed with the same.

Suits for immoveable property situate in different districts.

12. In like manner, if the property be situate within the limits of different districts, the suit may be brought in any Court, otherwise competent to try it, within the jurisdiction of which any portion of the land or other immoveable property in suit is situate, but in such case the Court in which the suit is brought shall apply to the Sadr Court for authority to proceed with the same; if the suit is brought in any Court subordinate to a District Court, the application shall be submitted through the District Court to which such Court is subordinate.[a]

Suits for immoveable property situate in districts subject to different Sadr Courts.

13. If the districts within the limits of which the property is situate are subject to different Sadr Courts, the application shall be submitted to the Sadr Court to which the district, in which the suit is brought, is subject; and the Sadr Court to which such application is made may, with the concurrence of the Sadr Court to which the other district is subject, give authority to proceed with the same.

Suit for land situate on the borders of the Court's local jurisdiction, and alleged to be within another jurisdiction.

14. If, in a suit for land situate on the borders of the Court's local jurisdiction, the defendant object to the hearing of the suit on the ground that the land is not included within the local jurisdiction of the Court, the Court shall have power to determine the point; and if the Court shall find that the land is included within its local jurisdiction, it shall proceed to try the suit. Provided that, if it be shown that the land in dispute has been adjudged by competent authority to belong to an estate, village, or other known division of land situate within the local jurisdiction of another Court, the Court in which the suit is brought shall reject the plaint, or return it to the plaintiff in order to its being presented in the proper Court.

Proviso.

Declaratory suit.

15. No suit shall be open to objection on the ground that a merely declaratory decree or order is sought thereby, and it shall be lawful for the civil Courts to make binding declarations of right without granting consequential relief.[b]

CHAPTER II.

Preliminary Rules.

Parties may appear in person or by recognized agent, or by pleader.

16. All applications to any civil Court, and all appearances of parties in any civil Court, except when otherwise specially provided by this Act, shall be made by the party in person, or by his recognized agent, or by a pleader duly appointed to act on his behalf.

[a] Modified in Oudh, see Act No. XXXII of 1871, sec. 14.
[b] 15 & 16 Vic., c. 86, s. 50.

Recognized agents.

17. The recognized agents of parties by whom such applications and appearances may be made are—

Persons holding powers-of-attorney from absent persons.

1*st*.—Persons holding general powers-of-attorney from parties not within the jurisdiction of the Court, authorizing them to make such applications and appearances on behalf of such parties.

Persons carrying on trade or business for absent persons.

2*ndly*.—Persons carrying on trade or business for and in the name of parties not within the jurisdiction of the Court[a] in matters connected with such trade or business only, where no other agent is expressly authorized to make such applications or appearances.

Persons authorized to act for Government.

3*rdly*.—Persons being *ex officio* or otherwise authorized to act for Government in respect of any suit or judicial proceeding.

Persons specially appointed to prosecute for Sovereign Prince.

4*thly*.—Persons specially appointed by order of Government, at the request of any Sovereign Prince or Independent Chief, whether residing within or without the British territories, to prosecute or defend a suit on his behalf.

Acts required to be done by party in person may be done by his recognized agent.

Service on recognized agents.

Whenever the personal appearance of a party to a suit is required by this Act, such appearance may be made by his recognized agent, unless the Court shall otherwise direct; and anything which by this Act is required or permitted to be done by a party in person may be done by his recognized agent. Notices given to or processes served on a recognized agent relative to a suit shall be as effectual for all purposes in relation to the suit as if the same had been given to or served on the party in person, unless the Court shall otherwise direct; and all the provisions of this Act relative to the service of notices or processes on a party to a suit shall be applicable to the service of notices and processes on such recognized agent.[b]

Appointment of pleader.

18. The appointment of a pleader to make any such application or appearance as aforesaid shall be in writing, and shall be filed in the Court. When so filed, it shall be considered to be in full force until revoked by a writing filed in the Court.

Service on pleaders.

All notices given to, or processes served on, the pleader of any party, or left at the office or ordinary residence of such pleader, relative to a suit, and whether the same be for the personal attendance of the party or not, shall be presumed to be duly communicated and made known to the party whom the pleader represents, and shall be as effectual for all purposes in relation to the suit as if the same had been given to or served on the party in person, unless the Court shall otherwise direct.

Officers or soldiers who cannot obtain

19. When an officer or soldier in the service of the Government is a party to a suit, and cannot obtain a furlough or leave of absence for the

[a] See Beng. Act No. VIII of 1869, sec. 32.

[b] As to paupers, see *infra*, sec. 301: 4 Bomb., A. C. J. 91.

purpose of prosecuting or defending the suit in person, he may authorize any member of his family or any other person to commence, conduct, and manage the suit or the defence, as the case may be, in his stead. The authority shall be in writing, and shall be signed by the officer or soldier in the presence of his commanding officer, who shall countersign the same and it shall be filed in the Court, When so filed, the countersignature of the commanding officer shall be sufficient proof that the authority was duly executed, and that the officer or soldier by whom it was granted could not obtain a furlough or leave of absence for the purpose of prosecuting or defending the suit in person.

leave of absence, may authorize any person to appear for them.

20. Any person who may be authorized, as in the last preceding section mentioned, by an officer or soldier, to prosecute or defend a suit in his stead, shall be competent to prosecute or defend it in person in the same manner as the officer or soldier could do if present; or he may appoint a pleader of the Court to prosecute or defend the suit on behalf of such officer or soldier. And all notices or processes relative to the suit which may be served upon any person who shall be so authorized as aforesaid by an officer or soldier, or upon any pleader who shall be appointed as aforesaid by such person to act for or on behalf of such officer or soldier, shall be as effectual for all purposes relative to the suit as if the same had been served on the party in person or on a pleader appointed by him.

Person so authorized may appear personally or appoint pleader.

21. Women, who according to the customs and manners of the country ought not to be compelled to appear in public, shall be exempt from personal appearance in Court.

Exemption of certain women from personal appearance.

22. The Government may at its discretion exempt from personal appearance in Court any person whose rank in the opinion of the Government entitles him to the privilege of exemption, and may at its discretion withdraw such privilege. The names of the persons so exempted (if any) residing within the jurisdiction of the principal civil Court of each district shall from time to time be forwarded to such Court by the Local Government, and a list of such persons (if any) shall be kept in such Court and in the several subordinate Courts of the district.

Government may exempt certain persons from personal appearance.

23. [*Repealed by Act No. XXIII of* 1861.]

24. If any plaint, written statement, or declaration in writing required by this Act to be verified shall contain any averment which the person making the verification shall know or believe to be false or shall not know or believe to be true, such person shall be subject to punishment according to the provision of the law for the time being in force for the punishment of giving or fabricating false evidence.

Punishment for false verification of plaint, statement, &c.

CHAPTER III.

Of a suit till final decree.

Of the Institution of Suits.

Suits to be commenced by plaint.

25. All suits shall be commenced by a plaint which, except when otherwise specially provided by this Act, shall be presented to the Court by the plaintiff in person, or by his recognized agent, or by a pleader duly appointed to act on his behalf.

Particulars to be given in the plaint.

26. The plaint shall be distinctly written in the language in ordinary use in proceedings before the Court, and shall contain the following particulars :—

1.—The name, description, and place of abode of the plaintiff.

2.—The name, description, and place of abode of the defendant, so far as they can be ascertained.

3.—The relief sought for, the subject of the claim, the cause of action and when it accrued : and, if the cause of action accrued beyond the period ordinarily allowed by any law for commencing such a suit, the ground upon which exemption from the law is claimed.

The following are instances :—

If the suit be for money due on a bond or other written instrument :—

Payment of due on *(a bond or other written instrument, as the case may be)* for the sum of , bearing date the day of and payable on the day of namely,—

Principal	
Interest	
Amount paid (if any)	
Balance due ...	

If the plaintiff claim exemption from any law of limitation, say—" The plaintiff was an infant *(or as the case may be)* from the day of to the day of "

If the suit be for the price of goods sold :—Payment of on account of maunds of *rice, indigo, sugar,* (*or as the case may be*) sold on the day of , and the price of which became payable on the day of as per account at foot.

If the suit be for damages for any injury done :—Payment of on account of injury done to the plaintiff [*here set out the nature of the injury, and state the particulars of the pecuniary loss* (*if any*)].

4.—When the claim is for any property other than money, its estimated value.

The following is an instance:—

If the suit be for an estate or for a share in an estate paying revenue to Government:—Possession of the estate (*or of share in the estate*), called , situate in the zila of , the sadr jama of which is and estimated value , of which the plaintiff was dispossessed (*or forcibly or fraudulently dispossessed if the case be so,*) on the day of *; or to which the plaintiff became entitled by inheritance from , or by gift, purchase, or otherwise, as the case may be, on or about the day of*).

5.—When the claim is for land or for any interest in land, the nature of the tenure or interest must be specified: and if the claim be for land forming part of a village or other known division, or for a house, garden, or the like, its situation shall be described by the setting forth of boundaries, or in such other manner as may suffice for its identification.

6.—In all suits by or against the Government, or one of its officers in his official capacity, or any corporation, or any company authorized to sue and be sued in the name of an officer or trustees, the words "The Government," or "The Collector of ," or otherwise as the case may be, or the name of the corporation, or the name or names of the officer or trustees of the company, shall be inserted in Nos. 1 and 2 instead of the name and description of the plaintiff or defendant. But in all other cases it shall be necessary to specify the names of all the parties.

Plaint to be subscribed and verified.

27. The plaint shall be subscribed by the plaintiff and his pleader (if any), and shall be verified at the foot by the plaintiff in the manner following, or to the like effect:—

I (A. B.) the plaintiff named in the above plaint do declare that what is stated therein is true to the best of my information and belief.

Verification where plaintiff is absent.

28. If the plaintiff, by reason of absence, or for other good cause, be unable to subscribe and verify the plaint, the Court may allow the plaint to be subscribed and verified on behalf of the plaintiff by any person whom the Court may consider competent to make the verification. In suits by a corporation or a company authorized to sue and be sued in the name of an officer or trustees, the plaint shall be subscribed and verified on behalf of the corporation or company by any director, secretary, or other principal officer of the corporation or company who may be able to depose to the facts of the case.

Verification in suits by companies.

Power to reject plaint, not containing

29. If the plaint do not contain the several particulars hereinbefore required to be specified therein, or if it contain particulars other than those re-

required particulars, &c.

quired to be specified whether relevant to the suit or not, or if the statement of particulars be unnecessarily prolix, or if the plaint be not subscribed and verified as hereinbefore required, the Court may reject the plaint, or at its discretion may allow the plaint to be amended.

Amendment of plaint.

Plaint to be returned if the claim is beyond Court's jurisdiction.

30. If the amount or estimated value of the claim, as stated by the plaintiff, be beyond the jurisdiction of the Court, the plaint shall be returned to the plaintiff in order to its being presented in the proper Court.

Plaint to be rejected, if improperly or insufficiently valued.

31. If it appear to the Court that the claim [a] is improperly valued, or being properly valued that the plaint is written upon stamped paper of inadequate value, and the plaintiff, on being required by the Court to correct such improper valuation or to supply such additional stamp-paper as may be necessary, shall not comply with the requisition, the Court shall reject the plaint.

Or if plaintiff has no cause of action, or right is barred.

32. If upon the face of the plaint, or after questioning the plaintiff, it appear to the Court that the subject-matter of the plaint does not constitute a cause of action, or that the right of action is barred by lapse of time, the Court shall reject the plaint.

Amendment of plaint.

Provided that the Court may in any case allow the plaint to be amended, if it appear proper to do so.

33. [*Repealed by Act No. XXIII of* 1861.]

Security for costs to be furnished by non-resident plaintiff.

34. A suit by a party ordinarily residing out of the British territories in India, and not possessing any land or other immoveable property within those territories independent of the property in suit, shall not be entertained unless the plaintiff, at the time of presenting the plaint or within such time as the Court shall order, furnish security for the payment of all costs that may be incurred by the defendant in the suit.

Otherwise plaint to be returned.

In the event of such security not being furnished, the Court shall return the plaint to the plaintiff.

Security for costs may be required in any stage of suit, if it appear that plaintiff resides out of India.

35. If in any stage of a suit it shall appear to the Court that the plaintiff (being sole plaintiff) is a person residing out of the British territories in India, the Court may order him, within a time to be fixed by such order, to furnish security for the payment of all costs incurred and to be incurred by the defendant in the suit. In the event of such security not being furnished within the time so fixed, the Court shall pass judgment against the plaintiff by default, unless he be permitted to withdraw from the suit under the provisions of section 97.

Appeal from order rejecting plaint.

36. Whenever a plaint is rejected under any of the foregoing sections, an appeal shall lie from the order rejecting the plaint. The rejection of a plaint

[a] See Act No. VII of 1870, section 7, paragraph iv, clause (*f*).

on any of the grounds mentioned in sections 29 and 31 shall not preclude a plaintiff from presenting a fresh plaint in respect of the same cause of action.

37. If the suit be for land or other immoveable property situate partly within the jurisdiction of the Court and partly within the jurisdiction of some other Court or Courts, the Court shall proceed according to the rules contained in section 11, section 12 or section 13, as the case may be.

Proceeding in suit for immoveable property in different jurisdictions.

38. If the Court consider the plaint admissible, the particulars mentioned in section 26 shall be entered in a book to be kept for the purpose, and called the register of civil suits; and the entries shall be numbered in every year according to the order in which the plaint is presented. The register shall be kept in the form contained in the schedule (A) hereunto annexed.

When plaint admissible, particulars to be entered in register.

Form of register.

39. When the plaintiff sues upon any written document or relies upon any such document as evidence in support of his claim, he shall produce the same in Court when the plaint is presented, and shall at the same time deliver a copy of the document to be filed with the plaint; if the document be an entry in a shop-book or other book, the plaintiff shall produce the book to the Court, together with a copy of the entry on which he relies. The Court shall forthwith mark the document for the purpose of identification; and after examining and comparing the copy with the original, shall return the document to the plaintiff. The plaintiff may, if he think proper, deliver the original document to be filed instead of the copy. The Court may, if it see sufficient cause, direct any written document so produced to be impounded and kept in the custody of some officer of the Court, for such period and subject to such conditions as to the Court shall seem meet.

Written document to be produced in Court when plaint is presented.

And copy filed with plaint.

Original to be marked and returned.

If plaintiff wish, original may be filed instead of copy.

Court may order document to be impounded.

Any document not produced in Court by the plaintiff when the plaint is presented, shall not be received in evidence on his behalf at the hearing of the suit without the sanction of the Court.

Admission of document not produced when plaint presented.

40. If the plaintiff require the production of any written document in the possession or power of the defendant, he may, at the time of presenting the plaint, deliver to the Court a description of the document, in order that the defendant may be required to produce the same.

Production of document in possession of defendant.

Of Summoning the Defendant.

41. When the plaint has been registered, a summons under the signature of the Judge and the seal of the Court shall be issued to the defendant to appear and answer the claim, on a day to be therein specified, in person or by a pleader of the Court duly instructed and able to answer all material questions relating to the suit, or by a pleader who shall be accompanied by some other person able to answer all such questions. The Court shall determine at the

On plaint being registered, summons to issue to defendant.

Summons to be either to settle issues,

or for final disposal.

time of issuing the summons whether it shall be for the settlement of issues only, or for the final disposal of the suit, and the summons shall contain a direction accordingly.

Personal appearance of defendant or plaintiff.

If resident within 50 miles.

Or within Court's local jurisdiction.

42. If the Court see reason to require the personal attendance of the defendant, the summons shall order the defendant to appear personally in Court on the day therein specified. If the Court see reason to require the personal attendance of the plaintiff on that day, it may make an order for such attendance. Provided that no plaintiff or defendant shall be ordered to attend in person, who at the time is *bonâ fide* residing at a distance of more than fifty miles from the place where the Court is held, unless he be resident within the limits of the jurisdiction of the Court.

Summons to order defendant to produce documents.

43. The summons to appear shall order the defendant to produce any written document in his possession or power, of which the plaintiff demands inspection, or upon which the defendant intends to rely in support of his defence.

Form of summons.

44. The summons shall be in the form contained in the schedule (B) hereunto annexed or to the like effect.

The day for defendant's appearance how fixed.

45. The day for the appearance of the defendant shall be fixed by the Court with reference to the place of residence of the defendant, and the time necessary for the service of the summons; and the day shall be so fixed as to allow the defendant a sufficient time to enable him to appear and answer in person or by a pleader on such day.

Court may order personal appearance of a director or secretary in suits against company.

46. In suits against a corporation or a company authorized to sue and be sued in the name of an officer or trustees, the Court may, if it think proper, require the personal attendance of any director, secretary or other principal officer of the corporation or company who may be able to answer all material questions relating to the suit.

Service of Summons on the Defendant.

Summons to be served by officer of Court.

47. The summons shall be delivered to the Názir or other proper officer of the Court to be served by himself or one of his subordinates, and such officer shall be responsible for its due service.

How service made.

48. Service of the summons shall be made by delivering or tendering a copy thereof under the signature of the Judge and seal of the Court; and when there are more defendants than one, service of the summons shall be made on each defendant.

When there are several defendants. Service on defendant in person, or on agent.

49. Whenever it may be practicable, the service shall be on the defendant in person, unless he have an agent empowered to accept the service, in which case service on such agent shall be sufficient.

50. Besides the recognized agents described in section 17, any person residing within the jurisdiction of the Court may be appointed an agent to receive the service of summonses and other processes.

Who may be an agent to receive service.

51. The appointment of such agent shall be in writing, and the original appointment, or a copy thereof if the appointment be a general one, shall be filed in the Court.

Appointment of agent to be in writing filed.

52. The Government pleader in each Court shall be accounted the agent of the Government for the purpose of receiving services of summonses and other judicial processes against the Government, issuing out of the Court in which he may be the pleader of Government.

Agent of Government.

53. When the defendant cannot be found, and has no agent empowered to accept the service of the summons, it may be made on any adult male member of his family residing with him.

Service on male member of family.

54. In all cases where the summons is served on the defendant personally or any agent or other person on his behalf, the serving officer shall require the signature of the person on whom the service may be made, to an acknowledgment of service, to be endorsed on the original summons or on a copy thereof under the seal of the Court. If such person refuse to sign the acknowledgment, the service of the summons shall nevertheless be held sufficient, if it be otherwise proved to the satisfaction of the Court.

Person served to be required to endorse summons.

But service is sufficient without.

55. When the defendant cannot be found, and there is no agent empowered to accept the service, nor any other person on whom the service can be made, the serving officer shall fix the copy of the summons on the outer door of the house in which the defendant is dwelling; and if he is not dwelling in the place mentioned in the summons, the serving officer shall return the summons to the Court from whence it issued with an endorsement thereon that he has been unable to serve it. Provided that, if the serving officer is informed that the defendant is to be found or has his dwelling in a place within the jurisdiction of the Court other than that indicated in the summons, the officer may proceed to that place to serve the summons.

When copy of summons to be fixed to door of dwelling-house.

When to be returned with endorsement of non-service.

Proviso.

56. The serving officer shall, in all cases in which the summons has been served, endorse on the original summons or on a copy thereof under the seal of the Court, the time when and the manner in which it was served.

Time and manner of service to be endorsed on summons.

57. When a summons is returned to the Court without having been served, if the plaintiff shall satisfy the Court that there is reasonable ground for believing that the defendant is keeping out of the way of its officer for the purpose of avoiding the service of the summons, the Court shall order the summons to be served by fixing up a copy thereof upon some conspicuous place in the Court-house, and also upon the door of the house in which the

When summons is returned unserved, Court to order substituted service, if satisfied that defendant is

avoiding service.

defendant shall have last resided; if it be known where he last resided; or that the summons shall be served in such other manner as the Court shall think proper. And the service which shall be substituted by order of the Court shall be as effectual to all intents and purposes as if it had been effected in the manner above specified.

When service is substituted, the time for appearance to be fixed.

58. Whenever service shall be substituted by order of the Court by virtue of the power contained in the last preceding section, the Court shall fix such time for the appearance of the defendant as the case may require.

Service of summons when defendant resides within another Court's jurisdiction and has no agent to accept service.

59. If the defendant be resident within the jurisdiction of any Court other than that in which the suit is instituted, and have no agent empowered to accept the service, the Court in which the suit is instituted shall transmit the summons, either by an officer of the Court or by post, to any Court having jurisdiction at the place where the defendant resides, by which it can be most conveniently served, and shall fix such time for the appearance of the defendant as the case may require; and the Court to which the summons is transmitted shall, upon receipt of the summons, deliver the same to the Názir or other proper officer of such Court, to be served in the manner above directed; and upon the return of the summons by the serving officer, it shall be re-transmitted to the Court from whence it originally issued.

Forwarding summons when defendant resides out of British India and has no agent to accept service. Time for appearance. In case of non-appearance of defendant, Court may direct suit to proceed subject to conditions.

60. If the defendant be resident out of the British territories in India, and have no agent empowered to accept the service, the summons shall be addressed to the defendant at the place where he may reside, and forwarded to him by post: in such case the time for the appearance of the defendant shall be regulated by the time which may be required for communication by post between the place at which the Court is held and the place where the defendant resides; and if, on the day fixed for the hearing of the suit or on any day to which the hearing may be adjourned, the defendant shall not appear in person or by pleader, the plaintiff may apply to the Court, and it shall be lawful for the Court to direct that the plaintiff shall be at liberty to proceed with his suit in such manner and subject to such conditions as to the Court may seem meet.

Service on agent in charge of land.

61. When the suit is for land or other immoveable property, and the summons for any reason cannot be served on the defendant in person and the defendant has no agent empowered to accept the service, the summons may be served on any agent of the defendant in charge of such land or other immoveable property.

Service on Government servants.

62. When the defendant is in the service of the Government, the Court may transmit a copy of the summons to the head officer of the office in which

the defendant is employed, for the purpose of being served on him, if it shall appear to the Court that the summons may be most conveniently so served. If the defendant be an officer or soldier, the Court shall transmit a copy of the summons to the commanding officer of the corps to which the defendant belongs, for the purpose of being served on him. The officer to whom the summons is transmitted, after causing the summons to be served on the person to whom it is addressed if practicable, shall return it to the Court with the written acknowledgment of such person endorsed thereon. If from any cause the summons cannot be served upon the person to whom it is addressed, it shall be returned to the Court by which it was transmitted with information of the cause which has prevented the service. In such case the Court shall adopt such other means of serving the summons as it may deem proper.

Service on officers and soldiers.

63. When the suit is against a corporation or a company authorised to sue and be sued in the name of an officer or trustees, the summons may be served by leaving the same at the registered office (if any) of the company, or sending it through the post office by a letter addressed to such office, or by giving it to any director, secretary, or other principal officer of the corporation or company.

Service on company.

64. Nothing contained in the preceding rules shall be construed to prevent the Court from substituting for the summons, a letter or other appropriate communication under the signature of the Judge and seal of the Court, when the person whose appearance is required is of a rank which entitles him to such mark of consideration. The letter or other communication shall contain all the particulars required to be stated in the summons, and shall be treated in all respects as a summons.

When letter may be substituted for a summons.

65. When a letter or other communication is substituted for a summons under the authority of the last preceding section, it may be transmitted through the post office, or by a special messenger selected by the Court, or in any other manner which the Court may deem sufficient; unless the party shall have an agent empowered to accept service of judicial process, in which case delivery to such agent shall be deemed sufficient service.

Service how to be made in such case.

66. Whenever it is provided that any summons, letter, or other communication may be transmitted to the person to whom it is addressed through the post office, proof that the same was correctly addressed to such person at his place of residence, and that it was duly posted and registered according to section 38 of Act XVII of 1854 [a] *(for the management of the Post Office,*

Proof of due service and delivery of summons, &c., sent through post.

[a] *i. e.*, Act No. XIV of 1866, section 25. See section 4 of that Act

for the regulation of the duties of postage, and for the punishment of offences against the Post Office), shall be sufficient proof of the due service and delivery of the summons, letter, or other communication, in the absence of evidence to the contrary.

Of Suits against Government and Public Officers.

In suits against Government, summons to be served on Government pleader.

Appearance and answer.

67. If the suit be against the Government, the summons shall be served on the Government pleader. The Court, in fixing the day for the Government to answer to the plaint, shall allow a reasonable time for the necessary communication with the Government through the proper channels, and for the issue of instructions to the Government pleader to appear and answer on behalf of the Government, and may extend the time at its discretion on the application of the Government pleader. The Court may also, if it think proper, direct the attendance of a person who may be able to answer all material questions relating to the suit.

Service on Government officers in suits for official acts.

68. If the suit be against an officer of the Government for an act which the plaintiff alleges to have been done by such officer in his official capacity, the summons shall be served upon such officer in the manner hereinbefore provided.

Extension of time to enable officer to refer to Government.

69. If the officer on receiving the summons shall consider it proper to make a reference to Government before answering to the plaint, he may move the Court to grant such extension of the time fixed in the summons as may be necessary to enable him to make such reference and to receive orders thereon through the proper channels; and the Court upon such motion may extend the time for so long as shall appear to it to be requisite.

Authority to Government pleader when Government undertakes defence.

70. If the Government shall undertake the defence of the suit, the Government pleader shall be furnished with authority to appear and answer to the plaint; and upon motion made by him, the Court shall order a note to that effect to be entered in the register.

When suit to proceed as between private parties.

71. If such motion shall not be made by the Government pleader on or before the day fixed in the notice for the defendant to appear and answer to the plaint, the case shall proceed as in a suit between private parties, except that the defendant shall not be liable to arrest before judgment.

Defendant may in certain cases be exempted from personal appearance.

72. If in any such suit the Court shall require the personal appearance of the defendant, and the defendant shall satisfy the Court that he cannot absent himself from his duty without injury to the public service, the Court shall exempt him from such appearance, but he shall be liable to be examined in any way in which an absent witness may be examined.

How Persons not before the Court may be made Parties to a Suit.

73. If it appear to the Court, at any hearing of a suit, that all the persons who may be entitled to, or who claim some share or interest in the subject-matter of the suit, and who may be likely to be affected by the result, have not been made parties to the suit, the Court may adjourn the hearing of the suit to a future day to be fixed by the Court, and direct that such persons shall be made either plaintiffs or defendants in the suit, as the case may be. In such case the Court shall issue a notice to such persons in the manner provided in this Act for the service of a summons on a defendant.

Court may adjourn hearing and direct that parties appearing to be interested in a suit shall be made parties to the suit.

Of Arrest before Judgment.

74. If in any suit, not being a suit for land or other immoveable property, the defendant, with intent to avoid or delay the plaintiff, or to obstruct or delay the execution of any decree that may be passed against him, is about to leave the jurisdiction of the Court, or has disposed of or removed from the jurisdiction of the Court his property or any part thereof, the plaintiff may, either at the institution of the suit, or at any time thereafter until final judgment, make an application to the Court that security be taken for the appearance of the defendant to answer any judgment that may be passed against him in the suit.

In suits for moveables, when defendant is about to leave jurisdiction, &c., plaintiff may apply that security be taken.

75. If the Court, after examining the applicant and making such further investigation as it may consider necessary, shall be of opinion that there is probable cause for believing that the defendant is about to leave its jurisdiction with the intent of avoiding or delaying the plaintiff, or that he has disposed of or removed from the jurisdiction of the Court his property or any part thereof with the intent to obstruct or delay the execution of any decree, it shall be lawful for the Court to issue a warrant to the proper officer, enjoining him to bring the defendant before the Court, that he may show cause why he should not give good and sufficient bail for his appearance.

Warrant to bring up defendant to show cause why he should not give bail.

76. If the defendant fail to show such cause, the Court shall order him to give bail for his appearance at any time when called upon while the suit is pending, and until execution or satisfaction of any decree that may be passed against him in the suit; and the surety or sureties shall undertake, in default of such appearance, to pay any sum of money that may be adjudged against the defendant in the suit, with costs. Any order made by the Court under the provisions of this section shall be open to appeal by the defendant.

If defendant fail to show cause, Court may order him to give bail.

Appeal.

77. Should a defendant offer, in lieu of bail for his appearance, to deposit a sum of money or other valuable property sufficient to answer the claim against him, with the costs of the suit, the Court may accept such deposit.

Deposit in lieu of bail.

Defendant to be imprisoned if he cannot give security.

78. In the event of the defendant neither furnishing security nor offering a sufficient deposit, he may be committed to custody until the decision of the suit, or if judgment be given against the defendant until the execution of the decree if the Court shall so order.

Compensation to defendant arrested on insufficient grounds.

79. If it shall appear to the Court that the arrest of the defendant was applied for on insufficient grounds, or if the suit of the plaintiff is dismissed or judgment is given against him by default or otherwise, and it shall appear to the Court that there was no probable ground for instituting the suit, the Court may (on the application of the defendant) award against the plaintiff in its decree such amount, not exceeding the sum of one thousand rupees, as it may deem a reasonable compensation to the defendant for any injury or loss which he may have sustained by reason of such arrest. Provided that the Court shall not award a larger amount of compensation under this section than it is competent to such Court to decree in an action for damages. An award of compensation under this section shall bar any suit for damages in respect of such arrest.

Proviso

When defendant is about to leave India, plaintiff may apply to Court.

80. If in any suit the defendant is about to leave the British territories in India with intent to remain absent so long that the plaintiff will or may thereby be obstructed or delayed in the execution of any decree that may be passed against the defendant, the plaintiff may make an application to the Court to the effect and in the manner aforesaid, and the procedure thereupon shall be in all respects the same as hereinbefore provided.

Of Attachment before Judgment.

When plaintiff may apply before judgment for security from defendant to fulfil decree, and in default for an attachment of his property.

81. If the defendant, with intent to obstruct or delay the execution of any decree that may be passed against him, is about to dispose of his property or any part thereof, or to remove any such property from the jurisdiction of the Court where the suit is pending, the plaintiff may apply to the Court, either at the time of the institution of the suit or at any time thereafter until final judgment, to call upon the defendant to furnish sufficient security to fulfil any decree that may be passed against him in the suit, and, on his failing to give such security, to direct that any property, moveable or immoveable, belonging to the defendant, shall be attached until the further order of the Court.

Application how made.

82. The application shall contain a specification of the property required to be attached, and the estimated value of each article or item thereof; and the plaintiff shall, at the time of making the application, declare that the defendant is about to dispose of or remove his property with such intent as aforesaid.

83. If the Court, after examining the applicant and making such further investigation as it may consider necessary, shall be satisfied that the defendant is about to dispose of or remove his property, with intent to obstruct or delay the execution of the decree, it shall be lawful for the Court to issue a warrant to the proper officer, commanding him to call upon the defendant, within a time to be fixed by the Court, either to furnish security in such sum as may be specified in the order to produce and place at the disposal of the Court when required the said property or the value of the same or such portion thereof as may be sufficient to fulfil the decree, or to appear and show cause why he should not furnish security. The Court may also in the warrant direct the attachment until further order of the whole or any portion of the property specified in the application.

Form of warrant.

84. If the defendant fail to show such cause or to furnish the required security within the time fixed by the Court, the Court may direct that the property specified in the application, if not already attached, or such portion thereof as shall be sufficient to fulfil the decree, shall be attached until further order. If the defendant show such cause or furnish the required security, and the property specified in the application or any portion of it shall have been attached, the Court shall order the attachment to be withdrawn.

If cause be not shown or security be not furnished, property may be attached.

Withdrawal of attachment.

85. The attachment shall be made according to the nature of the property to be attached, in the manner hereinafter prescribed for the attachment of property in execution of a decree for money. Any order for the attachment of property under the preceding section shall be open to appeal by the defendant.

How the attachment is to be made. Appeal.

86. In the event of any claim being preferred to the property attached before judgment, such claim shall be investigated in the manner hereinafter prescribed for the investigation of claims to property attached in execution of a decree for money.

Claims to property attached before judgment, how to be investigated.

87. In all cases of attachment before judgment, the Court which passed the order for the attachment shall at any time remove the same, on the defendant furnishing security as above required, together with security for the costs of the attachment.

Attachment may be removed when security is furnished.

88. If it shall appear to the Court that the attachment was applied for on insufficient grounds, or if the suit of the plaintiff is dismissed or judgment is given against him by default or otherwise, and it shall appear to the Court that there was no probable ground for instituting the suit, the Court may (on the application of the defendant) award against the plaintiff in its decree such amount, not exceeding the sum of one thousand rupees, as it may deem a reasonable compensation to the defendant for the expense or injury occasioned

Compensation for attachment applied for on insufficient grounds, &c.

Proviso.

to him by the attachment of his property. Provided that the Court shall not award a larger amount of compensation under this section than it is competent to such Court to decree in an action for damages. An award of compensation under this section shall bar any suit for damages in respect of such attachment.

Attachment not to affect rights of persons not parties, nor bar execution.

89. Attachments before judgment shall not affect the rights of persons not parties to the suit, nor bar any person holding a decree against the defendant from applying for the sale of the property under attachment in execution of such decree.

Power to stay sale of property already attached, when execution of a decree fraudulently obtained is applied for.

90. If it shall appear to the Court by whose order the property may have been attached before judgment, that there is reasonable ground for supposing that the decree, in satisfaction of which the sale of the property is applied for, was obtained by fraud or other improper means, the Court may refuse to allow the property to be sold in execution, if the decree be a decree of that Court; or if it be a decree of another Court, may stay the proceedings for a reasonable time to enable the plaintiff in the pending suit to adopt proceedings to set aside the decree.

When party may be put in immediate possession of land the subject of suit.

91. Whenever lands paying revenue to Government, or a tenure liable to summary sale under the provisions of Regulation VIII, 1819, of the Bengal Code (*to declare the validity of certain tenures and to define the relative rights of Zemindars and Putnee Talookdars, &c.*), form the subject of a suit, if the party in possession of such lands or tenure shall neglect to pay the Government revenue, or the rent due to the proprietor of the estate, as the case may be, and a public sale shall in consequence be ordered to take place, the party not in possession shall, upon payment of the revenue or rent due previously to the sale (and with or without security at the discretion of the Court), be put in immediate possession of the lands or tenure; and the Court in its decree may award against the defendant the amount so paid, with interest thereupon at such rate as to the Court may seem fit, or may charge the amount so paid, with interest thereupon, at such rate as the Court may order, in any adjustment of accounts which may be directed in the final decree upon the suit.

Of Injunctions.

Injunction to stay waste, &c.

92. In any suit in which it shall be shown to the satisfaction of the Court that any property which is in dispute in the suit is in danger of being wasted, damaged or alienated by any party to the suit, it shall be lawful for the Court to issue an injunction to such party, commanding him to refrain from doing the particular act complained of, or to give such other orders for the purpose of staying and preventing him from wasting, damaging, or alienating the property, as to the Court may seem meet.

And in all cases in which it may appear to the Court to be necessary for the preservation or the better management or custody of any property which is in dispute in a suit, it shall be lawful for the Court to appoint a receiver or manager of such property, and, if need be, to remove the person in whose possession or custody the property may be from the possession or custody thereof, and to commit the same to the custody of such receiver or manager, and to grant to such receiver or manager all such powers for the management or the preservation and improvement of the property, and the collection of the rents and profits thereof, and the application and disposal of such rents and profits, as to the Court may seem proper.

Appointment of receiver or manager.

If the property be land paying revenue to Government, and it is considered that the interests of those concerned will be promoted by the management of the collector, the Court may appoint the collector to be receiver and manager of such land, unless the Government shall by any general order prohibit the appointment of collectors for such purpose, or shall in any particular case prohibit the appointment of the collector to be such receiver.

When collector may be appointed receiver.

93. In any suit for restraining the defendant from the committal of any breach of contract or other injury, and whether the same be accompanied with any claim for damages or not, it shall be lawful for the plaintiff, at any time after the commencement of the suit, and whether before or after judgment, to apply to the Court for an injunction to restrain the defendant from the repetition, or the continuance of the breach of contract or wrongful act complained of, or the committal of any breach of contract or injury of a like kind arising out of the same contract or relating to the same property or right; and such injunction may be granted by the Court on such terms as to the duration of the injunction, keeping an account, giving security, or otherwise, as to such Court shall seem reasonable and just, and in case of disobedience such injunction may be enforced by imprisonment in the same manner as a decree for specific performance:

Injunction to restrain repetition or continuance of breach.

Provided always that any order for an injunction may be discharged or varied or set aside by the Court, on application made thereto by any party dissatisfied with such order.

Proviso.

94. Any order made under either of the last two preceding sections shall be open to appeal by the defendant.

Appeal.

95. The Court may in every case before granting an injunction direct such reasonable notice of the application for the same to be given to the opposite party as it shall see fit.

Notice to opposite party before grant of injunction.

96. If it shall appear to the Court that the injunction was applied for on insufficient grounds, or if the claim of the plaintiff is dismissed or judgment

Compensation to defendant

for needless issue of injunction.

is given against him by default or otherwise, and it shall appear to the Court that there was no probable ground for instituting the suit, the Court may (on the application of the defendant) award against the plaintiff in its decree such sum, not exceeding one thousand rupees, as it may deem a reasonable compensation to the defendant for the expense or injury occasioned to him by the issue of the injunction:

Proviso.

Provided that the Court shall not award a larger amount of compensation under this section than it is competent to such Court to decree in an action for damages.

An award of compensation under this section shall bar any suit for damages in respect of the issue of the injunction.

Of the Withdrawal and Adjustment of Suits.

Court may allow plaintiff to withdraw with liberty to bring fresh suit.

97. If the plaintiff at any time before final judgment satisfy the Court that there are sufficient grounds for permitting him to withdraw from the suit with liberty to bring a fresh suit for the same matter, it shall be competent to the Court to grant such permission on such terms as to costs or otherwise as it may deem proper. In any such fresh suit the plaintiff shall be bound by the rules for the limitation of actions in the same manner as if the first suit had not been brought. If the plaintiff withdraw from the suit without such permission, he shall be precluded from bringing a fresh suit for the same matter.

Adjustment or compromise.

98. If a suit shall be adjusted by mutual agreement or compromise, or if the defendant satisfy the plaintiff in respect to the matter of the suit, such agreement, compromise, or satisfaction shall be recorded, and the suit shall be disposed of in accordance therewith.

Of the Death, Marriage, and Bankruptcy or Insolvency of Parties.[a]

When suit not to abate by death.

99. The death of a plaintiff or defendant shall not cause the suit to abate if the cause of action survive.

When suit to proceed on death of one of several plaintiffs or defendants.

100. If there be two or more plaintiffs or defendants, and one of them die, and if the cause of action survive to the surviving plaintiff or plaintiffs alone, or against the surviving defendant or defendants alone, the suit shall proceed at the instance of the surviving plaintiff or plaintiffs, and against the surviving defendant or defendants.

Proceeding in case of death of one of several plaintiffs, where

101. If there be two or more plaintiffs, and one of them die, and if the cause of action shall not survive to the surviving plaintiff or plaintiffs alone but shall survive to them and the legal representative of the deceased plaintiff

[a] Founded on the Common Law Procedure Act, 1852 (15 & 16 Vic., c. 76), ss. 135 - 142.

jointly, the Court may, on the application of the legal representative of the deceased plaintiff, enter the name of such representative in the register of the suit in the place of such deceased plaintiff, and the suit shall proceed at the instance of the surviving plaintiff or plaintiffs and such legal representative of the deceased plaintiff. If no application shall be made to the Court by any person claiming to be the legal representative of the deceased plaintiff, the suit shall proceed at the instance of the surviving plaintiff or plaintiffs; and the legal representative of the deceased plaintiff shall be interested in and shall be bound by the judgment given in the suit in the same manner as if the suit had proceeded at his instance conjointly with the surviving plaintiff or plaintiffs.

cause of action accrues to survivor and the representative of deceased.

102. In case of the death of a sole plaintiff or sole surviving plaintiff, the Court may, on the application of the legal representative of such plaintiff, enter the name of such representative in the place of such plaintiff in the register of the suit, and the suit shall thereupon proceed; if no such application shall be made to the Court within what it may consider a reasonable time by any person claiming to be the legal representative of the deceased sole plaintiff or sole surviving plaintiff, it shall be competent to the Court to pass an order that the suit shall abate, and to award to the defendant the reasonable costs which he may have incurred in defending the suit, to be recovered from the estate of the deceased sole plaintiff or surviving plaintiff; or the Court may, if it think proper, on the application of the defendant, and upon such terms as to costs as may seem fit, pass such other order for bringing in the legal representative of the deceased sole plaintiff or surviving plaintiff, and for proceeding with the suit in order to a final determination of the matters in dispute, as may appear just and proper in the circumstances of the case.

Proceeding in case of death of sole or sole surviving plaintiff.

103. If any dispute arise as to who is the legal representative of a deceased plaintiff, it shall be competent to the Court either to stay the suit until the fact has been duly determined in another suit, or to decide at or before the hearing of the suit who shall be admitted to be such legal representative for the purpose of prosecuting the suit.

Proceeding in case of dispute as to who is the legal representative of a deceased plaintiff.

104. If there be two or more defendants, and one of them die, and the cause of action shall not survive against the surviving defendant or defendants alone, and also in case of the death of a sole defendant, or sole surviving defendant, where the action survives, the plaintiff may make an application to the Court, specifying the name, description, and place of abode of any person whom the plaintiff alleges to be the legal representative of such defendant, and whom he desires to be made the defendant in his stead; and the Court shall thereupon

Proceeding in case of death of one of several defendants, or of a sole or sole surviving defendant.

enter the name of such representative in the register of the suit in the place of such defendant, and shall issue a summons to him to appear on a day to be therein mentioned to defend the suit; and the case shall thereupon proceed in the same manner as if such representative had originally been made a defendant and had been a party to the former proceedings in the suit.

Marriage of a female plaintiff or defendant not to abate the suit.

105. The marriage of a woman, plaintiff or defendant, shall not cause the suit to abate, but the suit may notwithstanding be proceeded with to judgment, and the decree thereupon may be executed upon the wife alone; and if the case is one in which the husband is by law liable for the debts of his wife, the decree may, with the permission of the Court, be executed against the husband also; and in case of judgment for the wife, execution of the decree may, with the permission of the Court, be issued upon the application of the husband, where the husband is by law entitled to the money or thing which may be the subject of the decree.

Bankruptcy or insolvency when not to abate the suit.

106. The bankruptcy or insolvency of the plaintiff in any suit which the assignee might maintain for the benefit of the creditors shall not be a valid objection to the continuance of such suit, unless the assignee shall decline to continue the suit and to give security for the costs thereof within such reasonable time as the Court may order; if the assignee neglect or refuse to continue the suit and to give such security within the time limited by the order, the defendant may, within eight days after such neglect or refusal, plead the bankruptcy or insolvency of the plaintiff as a reason for abating the suit.

Of Notices to produce and how they are to be served.

Two notices in writing to be delivered to the proper officer of the Court.

107. Whenever any of the parties to a suit is desirous that any document, writing, or other thing, which he believes to be in the possession or power of another of the parties thereto, should be produced at any hearing of the suit, and the production of such document, writing, or other thing has not previously been required, under the provisions of sections 40 and 43, he shall at the earliest opportunity deliver to the Court two notices in writing to the party in whose possession or power he believes the document, writing, or other thing to be, calling upon him to produce the same; and one of such notices shall be filed in Court, and the other shall be delivered by the Court to the Názir or other proper officer, to be served upon such party.

Service of process on party having no pleader.

108. In all cases in which a party to a suit has not appointed a pleader to act for him, all notices and other judicial processes shall be served upon such party in the manner hereinbefore provided for the service of a summons upon a defendant to appear and answer.

Of the Appearance of the Parties and Consequences of Non-appearance.

109. On the day fixed in the summons for the defendant to appear and answer, the parties shall be in attendance at the Court-house in person or by a pleader, and the suit shall then be heard unless the hearing be adjourned to a future day which shall be fixed by the Court.

Parties must appear in person or by pleader.

110. If, on the day fixed for the defendant to appear and answer, or any other day subsequent thereto, to which the hearing of the suit may be adjourned, neither party shall appear, either in person or by a pleader, when duly called upon by the Court, the suit shall be dismissed. Whenever a suit is dismissed under the provisions of this section, the plaintiff shall be at liberty to bring a fresh suit, unless precluded by the rules for the limitation of actions; or if he shall within the period of thirty days satisfy the Court that there was a sufficient excuse for his non-appearance, the Court may issue a fresh summons upon the plaint already filed.

If neither party appear, suit to be dismissed, with liberty to plaintiff to bring fresh suit.

When fresh summons may be issued.

111. If the plaintiff shall appear in person or by a pleader, and the defendant shall not appear in person or by a pleader, and it shall be proved to the satisfaction of the Court that the summons was duly served, the Court shall proceed to hear the suit *ex parte*. If the defendant appear on any subsequent day to which the hearing of the suit is adjourned, and shall assign good and sufficient cause for his previous non-appearance, he may upon such terms as the Court may direct as to payment of costs or otherwise be heard in answer to the suit in like manner as if he had appeared on the day fixed for his appearance.

When Court to proceed *ex parte*.

When defendant may be heard on day of adjourned hearing.

112. If the plaintiff shall appear in person or by a pleader, and the defendant shall not appear in person or by a pleader, and it shall not be proved to the satisfaction of the Court that the summons was duly served in any of the modes of service hereinbefore provided, the Court may direct a second summons to the defendant to be issued in any of the said modes.

When Court may order issue of second summons.

113. If the plaintiff shall appear in person or by a pleader, and the defendant shall not appear in person or by a pleader, and it shall be proved to the satisfaction of the Court that the summons was served on the defendant but not in sufficient time to enable the defendant to appear and answer on the day fixed in the summons, the Court shall postpone the hearing of the suit to a future day to be fixed by the Court, and may direct notice of such day to be given to the defendant.

When Court to adjourn hearing and may direct notice to be given to defendant.

114. If the defendant shall appear in person or by a pleader, and the plaintiff shall not appear in person or by a pleader, the Court shall pass judgment against the plaintiff by default, unless the defendant admit the claim,

When Court to pass judgment by default

against plaintiff.

Bar to fresh suit.

in which case the Court shall pass judgment against the defendant upon such admission. When judgment is passed against a plaintiff by default, he shall be precluded from bringing a fresh suit in respect of the same cause of action.

When there are several plaintiffs or defendants, each may authorize the other to appear for him.

115. When there are two or more plaintiffs, any one or more of them may be authorized to appear, plead, and act for the other or others of them: and in like manner, when there are two or more defendants, any one or more of them may be authorized to appear, plead, and act for the other or others of them: provided that the authority shall in all cases be in writing, and shall be filed in the Court; when so filed, it shall be as effectual to all intents and purposes as if the person so authorized to appear, plead, and act, were a pleader of the Court.

Consequence of non-appearance of one or more of several plaintiffs.

116. If there are two or more plaintiffs, and one or more of them shall appear in person or by a pleader or by a co-plaintiff duly authorized, and the other or others of them shall not appear in person or by a pleader or by a co-plaintiff duly authorized, it shall be competent to the Court to proceed with the suit at the instance of the plaintiff or plaintiffs who shall have appeared, in the same way as if all the plaintiffs had appeared, and to pass such order as may be just and proper in the circumstances of the case; and if there are two or more defendants, and one or more of them shall appear in person or by a pleader or by a co-defendant duly authorized, and the other or others of them shall not appear in person or by a pleader or by a co-defendant duly authorized, the Court shall proceed with the suit to judgment, and shall at the time of passing judgment give such order with respect to the defendant or defendants who shall not have appeared as shall be just and proper in the circumstances of the case.

Consequence of non-appearance of one or more of several defendants.

Consequence of non-appearance, without cause, of party ordered to appear in person.

117. If any plaintiff or defendant who shall have been ordered or summoned to appear personally under the provisions of section 42, shall not appear in person, or show sufficient cause to the satisfaction of the Court for failing so to appear, such plaintiff or defendant shall be subject to all the provisions of the foregoing sections applicable to plaintiffs and defendants respectively, who do not appear either in person or by pleader.

Court to receive declaration in support of cause shown.

118. In support of the cause shown by a plaintiff or defendant for failure to appear in person, the Court shall receive any declaration in writing,[a] if signed by such plaintiff or defendant and verified in the manner hereinbefore provided for the verification of plaints.

No appeal from judgments passed

119. No appeal shall lie from a judgment passed *ex parte* against a defendant who has not appeared, or from a judgment against a plaintiff by

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[a] See Act No. VII of 1870, section 19, para. ii.

default for non-appearance. But in all cases in which judgment may be passed *ex parte* against a defendant, he may apply[a] to the Court by which the judgment was passed, for an order to set it aside; and if it shall be proved to the satisfaction of the Court that the summons was not duly served, or that the defendant was prevented by any sufficient cause from appearing when the suit was called on for hearing, the Court shall pass an order to set aside the judgment, and shall appoint a day for proceeding with the suit.

ex parte or by default.

When and how judgment *ex parte* against defendant may be set aside.

In all cases of judgment against a plaintiff by default, he may apply[b] for an order to set it aside; and if it shall be proved to the satisfaction of the Court that the plaintiff was prevented by any sufficient cause from appearing when the suit was called on for hearing, the Court shall pass an order to set aside the judgment by default and shall appoint a day for proceeding with the suit.

When and how judgment by default against plaintiff may be set aside.

But no judgment shall be set aside on any such application as aforesaid, unless notice thereof have been served on the opposite party.

Notice to opposite party.

In all cases in which the Court shall pass an order under this section for setting aside a judgment, the order shall be final; but in all appealable cases in which the Court shall reject the application, an appeal shall lie from the order of rejection to the tribunal to which the final decision in the suit would be appealable, provided that the appeal be preferred within the time allowed for an appeal from such final decision.[c]

Order for setting aside judgment final.

Appeal from order of rejection.

Of written Statements.

120. The parties or their pleaders may tender at the first hearing of the suit written statements of their respective cases, and the Court shall receive the same and put them on the record. Such statements shall be written on the stamp-paper prescribed for petitions to the Court where a stamp is required for petitions.

Tender of written statements by parties.

Stamp-paper to be used.

121. If in a suit for debt the defendant desire to set-off against the claim of the plaintiff the amount of any debt due to him from the plaintiff, he shall tender a written statement containing the particulars of his demand, and the Court shall thereupon enquire into the same. Provided that, if the sum claimed by the defendant exceed the amount cognizable by the Court, the defendant shall not be allowed to set-off the same unless he abandon the excess.

Particulars of set-off to be given in a written statement.

Abandonment of excess of set-off over claim.

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[a] See Act No. IX of 1871, schedule II, No. 157.

[b] See Act No. IX of 1871, schedule II, No. 156.

[c] See Act No. IX of 1871, schedule II, Nos. 151—154.

Reception of written statement after first hearing. Power to call for written statement.

122. No written statement shall be received after the first hearing of the suit, unless called for by the Court. But it shall be competent to the Court, at any time before final judgment, to call for a written statement, or an additional written statement from any of the parties.[a]

How written statements are to be framed.

123. Written statements shall be as brief as the nature of the case will admit, and shall not be argumentative, nor by way of answer one to the other; but each statement shall be confined, as much as possible, to a simple narrative of the facts which the party by whom or on whose behalf the written statement is made believes to be material to the case, and which he believes he will be able to prove if called upon by the Court. Written statements shall be subscribed and verified in the manner hereinbefore provided for subscribing and verifying plaints, and no written statement shall be received unless it be so subscribed and verified.

Written statements to be subscribed and verified.

Court may reject a written statement which is argumentative, prolix, or irrelevant.

124. If it shall appear to the Court that any written statement presented by or on behalf of a party, whether the same have been spontaneously tendered or have been called for by the Court, is argumentative or unnecessarily prolix, or that it contains matter irrelevant to the suit, the Court may reject the same, and return it to the party with the order of rejection endorsed thereon; and it shall not be competent to a party whose written statement has been rejected for any of these causes to present another written statement, unless it shall be expressly called for or allowed by the Court.

Of the Examination of the Parties.

Oral examination of party, &c.

125. At the first hearing of the suit, and if necessary at any subsequent hearing, any party who appears in person or is present in Court, or the pleader of any party who appears by a pleader, or if the pleader be accompanied by another person able to answer all material questions relating to the suit, then such other person may be examined orally by the Court. Such examination shall (unless the pleader be the person examined) be upon oath or affirmation or otherwise according to the provisions of the law for the time being in force in relation to the examination of witnesses. The substance of the examination shall be reduced to writing and form part of the record.

Oath.

Substance of examination to be written.

Consequence of refusal of a party to answer.

126. If any party who appears in person or is present in Court shall without lawful excuse refuse to answer any material question relating to the suit which the Court may think proper to put to such party, the Court may pass judgment against him, or make such other order in relation to the suit as it may deem proper in the circumstances of the case.

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[a] When called for by the Court after the first hearing, such statements are exempt from Court-fees, see Act No. VII of 1870, section 19, para. iii.

127. If the pleader of any party who shall appear by a pleader shall refuse or be unable to answer any material question relating to the suit which the Court is of opinion that the party whom he represents ought to answer, and is likely to be able to answer if interrogated in person, the Court may postpone the hearing of the suit to a future day and direct that such party shall attend in person on such day; and if the party so directed to attend shall without lawful excuse fail to appear in person on the day to be so appointed, the Court may pass judgment against him, or make such other order in relation to the suit as it may deem proper in the circumstances of the case.

Consequence of refusal or inability of pleader to answer.

Of the Production of Documents.

128. The parties or their pleaders shall bring with them, and have in readiness at the first hearing of the suit to be produced when called upon by the Court, all their documentary evidence of every description which may not already have been filed in Court, and all documents, writings, or other things which may have been specified in any notice which may have been served on them respectively within a reasonable time before the hearing of the suit; and no documentary evidence of any kind, which the parties or any of them may desire to produce, shall be received by the Court at any subsequent stage of the proceedings, unless good cause be shown to its satisfaction for the non-production thereof at the first hearing.

Documentary evidence to be produced at first hearing.

129. All exhibits produced by the parties shall be received and inspected by the Court; but it shall be competent to the Court, after inspection, to reject any exhibit which it may consider irrelevant or otherwise inadmissible, recording the grounds of such rejection.

Exhibits to be received and inspected by the Court. Rejection of exhibits.

130, 131. [*Repealed by Act No. XXXVI of* 1860, *section* 13, *clause* 4.]

132. When an exhibit is received by the Court and admitted in evidence, it shall be endorsed with the number and title of the suit, the name of the party producing it, and the date on which it was produced, and shall be filed as part of the record. Provided that, if the exhibit be an entry in any shop-book or other book, the party on whose behalf such book is produced shall furnish a copy of the entry, which copy shall be endorsed as aforesaid, and shall be filed as part of the record, and the book shall be returned to the party producing it.

Admitted exhibits to be marked and filed.

Proviso.

133. [*Repealed by Act No. XXVI of* 1867, *section* 4.]

134. When an exhibit is rejected by the Court, it shall be endorsed in the manner specified in section 132 with the addition of the word "rejected," and the endorsement shall be subscribed by the Judge. The exhibit shall

Rejected exhibits to be marked and returned.

Unless detained by the Court.

then be returned to the party who produced it, unless the Court shall think proper, for special reasons (as on suspicion of forgery), to detain it.

After the time for appeal has elapsed, exhibit admitted in evidence may be returned.

135. When the time for preferring an appeal from the decision passed in the suit has elapsed, or if an appeal has been preferred from such decision, then after the appeal has been finally disposed of, any person, whether a party to the suit or not, who may be desirous of receiving back any exhibit produced by him in the suit, shall be entitled, on application to the Court in which such exhibit may be, to receive back the same, unless the further use of such exhibit has been superseded by the terms of the decree, or the Court has directed it to be detained for the purposes of public justice.

Exhibit may be returned before the time limited, for special reasons. Certified copy to be kept.

136. Any exhibit may be returned before the time mentioned in the last preceding section, if the Court in which the document may be shall think proper, for special reasons, to order its return. But in every case a copy, properly certified, and made at the expense of the applicant, shall be substituted for the original in the record of the suit.

Receipt to be given for returned exhibit.

137. Whenever an exhibit once received by a Court of Justice and admitted in evidence is returned, a receipt shall be given by the party receiving it in a receipt-book kept for the purpose.

Court may send for records and papers.

Except State papers.

138. Any civil Court may of its own accord, or upon the application of any of the parties to a suit, send for, either from its own record or from any other public office or Court, the record of any other suit or case, or any other official papers (not being documents relating to affairs of State, the production of which may be contrary to good policy), and inspect the same, when the inspection of such record or papers shall appear likely to elucidate the facts of the suit before the Court, and to promote the ends of justice.

Of the Settlement of Issues.

Framing of issues.

139. At the first hearing of the suit the Court shall enquire and ascertain upon what questions of law or fact the parties are at issue, and shall thereupon proceed to frame and record the issues of law and fact on which the right decision of the case may depend.

The Court may frame the issues from the allegations of fact which it collects from the oral examination of the parties or their pleaders, notwithstanding any difference between such allegations of fact and the allegations of fact contained in the written statements, if any, tendered by the parties or their pleaders.

Court may examine witnesses or documents before framing the issues.

140. If the Court shall be of opinion that the issues cannot be correctly framed without the examination of some person other than the persons already before the Court, or without the reading of some document not produced by any of such persons, it may adjourn the framing of the issues

to a future day, to be fixed by the Court, and may compel the attendance of such person, or the production of the document by the person in whose hands it may be, by summons or other suitable process.

141. At any time before the decision of the case, the Court may amend the issues or frame additional issues on such terms as to it shall seem fit, and all such amendments as may be necessary for the purpose of determining the real question or controversy between the parties shall be so made.

Amendment of issues. Additional issues.

Of Issues by Agreement of Parties.

142. When the parties to a suit are agreed as to the question or questions of fact or of law to be decided between them, they may state the same in the form of an issue, and enter into an agreement in writing, which shall not be subject to any stamp-duty, that upon the finding of the Court in the affirmative or the negative of such issue, a sum of money specified in the agreement, or to be ascertained by the Court upon a question inserted in the issue for that purpose, shall be paid by one of the parties to the other of them, or that upon such finding some property specified in the agreement, and in dispute in the suit, shall be delivered by one of the parties to the other of them, or that upon such finding one or more of the parties shall do or perform some particular legal act, or shall refrain from doing or performing some particular act, specified in the agreement, and having reference to the matter in dispute.

Questions of fact or law may by agreement be stated by the parties in the form of an issue.

143. If the Court shall be satisfied, after an examination of the parties or their pleaders, and taking such evidence as it may deem proper, that the agreement was duly executed by the parties and that the parties have a *bonâ fide* interest in the decision of such question, and that the same is fit to be tried and decided, it may proceed to record and try the same, and deliver its finding or opinion thereon in the same manner as if the issue had been framed by the Court, and may, upon the finding or decision on such issue, give judgment for the sum so agreed on or so ascertained as aforesaid, or otherwise according to the terms of the agreement; and upon the judgment which shall be so given, decree shall follow and may be executed in the same way as if the judgment had been pronounced in a contested suit.

Court if satisfied that the agreement was executed *bonâ fide*, may give judgment.

When the Suit may be disposed of at the First Hearing.

144. If at the first hearing of a suit it shall appear that the parties are not at issue on any question of law or fact, the Court may at once give judgment.

If parties not at issue on question of law or fact.

If the parties are at issue on questions of law or fact.

145. When the parties are at issue on some question of law or fact, and issues have been framed by the Court as hereinbefore provided, if the Court shall be satisfied that no further argument or evidence than such as the parties or their pleaders can at once supply is required upon any such of the issues of law or fact as may be sufficient for the decision of the suit, the Court, after hearing such argument and evidence, may proceed to determine such issue or issues, and if the finding thereon is sufficient for the decision, may pronounce judgment accordingly, whether the summons shall have been issued for the settlement of issues only or for the final disposal of the suit; otherwise the Court shall postpone the further hearing of the suit, and shall fix a day for the production of such further evidence or for such further argument as the case may require.

Court, if satisfied, may determine the issues and give judgment.

Proviso where summons is for final disposal.

Provided that, if the summons shall have been issued for the final disposal of the suit and either party shall fail without sufficient cause to produce the evidence on which he relies, the Court may at once give judgment.

Of Adjournments.

Court may grant time, or adjourn to a future day.

146. The Court may, if sufficient cause be shown, at any stage of the suit, grant time to the parties, or to either of them, and may from time to time adjourn the hearing of the suit; and in all such cases the Court shall fix a day for the further hearing of the suit.

Proviso.

Provided that in all such cases the party applying for time shall pay the costs occasioned by such adjournment, unless the Court shall otherwise direct.

How Court is to proceed if the parties fail to appear on the day fixed.

147. If on any day to which the hearing of the suit may be adjourned, the parties or either of them shall not appear in person or by pleader, the Court may proceed to dispose of the suit in the manner specified in section 110, section 111 or section 114, as the case may be, or may make such other order as may appear to be just and proper in the circumstances of the case.

Court to decide notwithstanding default of either party.

148. If either party to a suit to whom time may have been granted shall fail to produce his proofs, or to cause the attendance of his witnesses, or to perform any other act for which time may have been allowed, the Court shall proceed to a decision of the suit on the record, notwithstanding such default.

Of summoning Witnesses.

Application for summons.

149. The parties or their pleaders may, at any time after the issue of the summons to the defendant, if the summons be for the final disposal of the suit, or after the issues have been recorded, if the summons to the defendant be for the settlement of issues only, obtain, on application to the Court, summonses to witnesses or other persons to attend either to give evidence or to produce

documents, and in any such summons the names of any number of persons may be inserted.

150. [*Repealed by Act No. XXVI of* 1867, *section* 4.]

151. The person applying for a summons shall pay into Court such a sum of money as shall appear to the Court to be reasonable, to defray the travelling and other expenses of each witness or other person mentioned in the summons, in passing to and from the Court in which he may be required to attend, and for one day's attendance.

Expenses of witnesses to be paid before issue of summons.

If the Court be a subordinate Court, regard shall be had, in fixing the scale of such expenses, to the rules (if any) established by the Court to which such Court shall be immediately subordinate.

Scale of expenses.

The sum so paid into Court shall be tendered to the witness or other person at the time of serving the summons, if it can be served personally.

Tender of expenses to witness.

If it shall appear to the Court that the sum paid into Court on account of the travelling and other expenses of the witness or other person in passing to and from the Court is not sufficient to cover such expenses, the Court may direct such further sum to be paid to the witness or other person as may appear to be necessary on that account, and, in case of default in payment, may order such sum to be levied by attachment and sale of the goods of the person ordered to pay the same, or may discharge the witness without requiring him to give evidence.

If sum be not sufficient.

If it shall be necessary to detain the witness or other person summoned for a longer period than one day, the Court may from time to time order the party at whose instance he was summoned to pay into Court such sum as may be sufficient to defray the expenses of his detention for such further period, and in default of such deposit being made, may order the witness to be discharged without requiring him to give evidence.

Expenses if witness is detained.

152. Every summons for the attendance of a witness or other person shall specify the time and place at which he is required to attend, and also whether his attendance is required for the purpose of giving evidence or to produce a document, or for both purposes; and any particular document which the witness or other person may be called on to produce shall be described in the summons with convenient certainty.

Time, place and purpose of attendance to be specified in summons.

153. Any person, whether a party to a suit or not, may be summoned to produce a document, without being summoned to give evidence; and any person summoned merely to produce a document shall be deemed to have complied with the summons, if he cause such document to be produced instead of attending personally to produce the same.

Summons to produce document.

SERVICE OF SUMMONS ON A WITNESS.

How and when summons shall be served.

154. Every summons to a witness or other person shall be served by exhibiting the original, and delivering or tendering a copy; and the service shall in all cases be made a sufficient time before the time specified in the summons for the attendance of the witness or other person, to allow him a reasonable time for preparation, and for travelling to the place at which his attendance is required.

Service to be on witness, or a male member of his family.

155. Whenever it may be practicable, the service of the summons shall be upon the person thereby required to attend, but when he cannot be found, the service may be made on any adult male member of his family residing with him.

Summons which cannot be served to be returned to Court.

156. When the person required to attend cannot be found, and there is no adult male member of his family on whom the summons can be served, the serving officer shall return the summons to the Court from whence it issued, with an endorsement thereon that he has been unable to serve it.

Time and manner of service to be endorsed on the summons.

157. The serving officer shall, in all cases in which the summons has been served, endorse on the original summons the time when and the manner in which it was served.

Service of summons on witness residing in another jurisdiction.

158. If the person required to attend be resident within the jurisdiction of any other Court than that in which the suit is pending, the summons shall be transmitted by the Court in which the suit is pending, to any Court having jurisdiction at the place where the witness resides by which it can be most conveniently served; and the Court to which the summons is sent shall, upon receipt thereof, deliver the same to the Názir or other proper officer of such Court, to be served in the manner above directed; and upon the return of the summons by the serving officer, it shall be transmitted to the Court from whence it originally issued.

When a witness absconds, his property may be attached.

159. If the summons for the attendance of any person either to give evidence or to produce a document, cannot be served in either of the ways hereinbefore specified, the Court, on being certified thereof by the return of the serving officer, and upon proof that the evidence of such witness or the production of the document is material, and that the witness or other person absconds or keeps out of the way for the purpose of avoiding the service of the summons, may cause a proclamation requiring the attendance of such person to give evidence, or produce the document, at a time and place to be named therein, to be affixed in some conspicuous place upon his house or place of abode;

and if such person shall not attend at the time and place named in such proclamation, the Court may, at the instance of the party on whose

application the summons was issued, make an order for the attachment of the moveable and immoveable property of such person, to such amount as the Court shall deem reasonable, not being in excess of the amount of the costs of attachment and of any fine to which the person may be liable under the provisions of the following section.

How the Court is to proceed with the witness on his appearance.

160. If, on the attachment of the property, such witness or other person shall appear and satisfy the Court that he did not abscond or keep out of the way to avoid service of the summons, and that he had not notice of the proclamation in time to attend at the time and place named therein, the Court shall direct that the property be released from attachment, and shall make such order in regard to the costs of the attachment as it shall deem fit.

If such witness or other person shall not appear, or appearing shall fail to satisfy the Court that he did not abscond or keep out of the way to avoid service of the summons, and that he had not such a notice of the proclamation as aforesaid, it shall be lawful for the Court to order the property attached, or any part thereof, to be sold for the purpose of satisfying all costs incurred in consequence of such attachment, together with the amount of any fine which the Court may impose upon such witness or other person under the provisions of any law for the time being in force for the punishment of a witness who may abscond or keep out of the way in order to avoid the service of a summons. If the witness or other person shall pay into Court the costs and fine as aforesaid, the Court shall order the property to be released from attachment.

Of the Examination of Parties as Witnesses.

Liability of party appearing in person to be examined.

161. When a party to a suit appears in person at any hearing of the suit, he may be examined as a witness, either in his own behalf or on behalf of any other party to the suit, in the same way as if he were not a party thereto.

Special application for examination of party as witness.

162. If any party to a suit shall require to enforce the attendance of any other party thereto as a witness, he shall, by himself or his pleader, make a special application to the Court for an order requiring the attendance of the party, and shall show, to the satisfaction of the Court, sufficient grounds in support of such application, otherwise a summons shall not be issued.

The Court may first issue notice to show cause.

163. The Court, if it think fit, may, before making such order, cause notice to be given to the party or his pleader, fixing a day for such party to show cause why he should not attend and give evidence; and may also, from time to time, if necessary, for good and sufficient reason, enlarge the time for such purpose.

Court to receive written declaration in support of cause shown.

164. In support of the cause shown, the Court shall receive any declaration in writing of the party, [a] if signed by him and verified in the manner hereinbefore provided for the verification of plaints, and delivered into the Court by himself or his pleader.

If no sufficient cause shown, summons to issue.

165. If no sufficient cause be shown on the day fixed, or upon any subsequent day to which the Court shall enlarge the time for that purpose, the Court shall issue its order requiring the party to attend and give evidence.

Court may of its own accord at any time summon a witness.

166. If the Court shall think it necessary for the ends of justice to examine any party to the suit or to inspect any document in his possession or power, the Court may, of its own accord in any stage of the suit, cause such party to be summoned to attend as a witness to give evidence or to produce such document if in his possession or power on a day to be appointed in the summons, and may examine such party as a witness in open Court or may cause such party to be examined in such other manner as the Court may direct.

ATTENDANCE OF WITNESSES, AND CONSEQUENCE OF NON-ATTENDANCE.

Persons summoned to give evidence must attend.

167. Any person who shall be summoned to appear and give evidence in a suit shall be bound to attend at the time and place named in the summons for that purpose.

Consequences of non-attendance by witness.

168. If any person on whom any summons to give evidence or produce a document shall have been served in either of the ways specified in section 155 shall, without lawful excuse, fail to comply with the summons, the Court may order such person to be apprehended and brought before the Court. If such person abscond or keep out of the way, so that he cannot be apprehended or brought before the Court, his property shall be liable to attachment and sale in the manner and subject to the rules provided in sections 159 and 160 with respect to a witness or other person on whom the service of a summons cannot be effected.

Consequences of refusal to give evidence.

169. If any witness, attending or being present in Court, shall, without lawful excuse, refuse to give evidence, or to produce any document in his custody or possession named in such summons as aforesaid, upon being required by the Court so to do, the Court may commit such witness to close custody for such reasonable time as it may deem proper, unless he shall, in the meantime, consent to give his evidence, or to produce the document. If after the expiration of such time the witness shall persist in his refusal, the Court may proceed to deal with him according to the provisions of any law for the time being in force for the punishment of persons refusing to give evidence.

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[a] See Act No. VII of 1870, sec. 19, para. ii.

170. If any person, being a party to the suit, who shall be ordered to attend to give evidence or produce a document, shall, without lawful excuse, fail to comply with such order, or, attending or being present in Court, shall, without lawful excuse, refuse to give evidence, or to produce any document in his custody or possession named in such summons as aforesaid, upon being required by the Court so to do, the Court may either pass judgment against the party so failing or refusing, or make such other order in relation to the suit as the Court may deem proper in the circumstances of the case.

Consequence of non-attendance or refusal of a party to the suit to give evidence.

171. Any person present in Court, whether a party to the suit or not, may be called upon by the Court to give evidence and to produce any document then and there in his actual possession or in his power, in the same manner and subject to the same rules as if he had been summoned to attend and give evidence or to produce such document, and shall be liable to be dealt with by the Court as a party or witness, as the case may be, would, under any of the preceding provisions, be liable to be dealt with for any refusal to obey the order of the Court.

Any person present in Court may be called upon to give evidence though not summoned.

When and how Witnesses are to be examined.

172. On the day appointed for the hearing of the suit or on some other day to which the hearing may be adjourned, the evidence of the witnesses in attendance shall be taken orally in open Court, in the presence and hearing, and under the personal direction and superintendence of the Judge.

Witnesses to be examined at the hearing of the suit in open Court.

In cases in which an appeal lies to a higher tribunal, the evidence of each witness given upon such examination shall be taken down in writing, in the language in ordinary use in proceedings before the Court, by or in the presence and under the personal direction and superintendence of the Judge, not ordinarily in the form of question and answer, but in that of a narrative, and, when completed, shall be read over in the presence of the Judge and of the witness, and also in the presence of the parties to the suit, or their pleaders, or such of them as are in attendance, and shall, if necessary, be corrected, and shall be signed by the Judge.

In what form evidence shall be taken in appealable cases.

If the evidence be taken down in a different language from that in which it has been given, and the witness does not understand the language in which it is taken down, the witness may require his deposition as taken down in writing to be interpreted to him in the language in which it was given.

In what case a witness may require his deposition to be interpreted to him.

Where all the parties to the suit present, and the pleaders of such as are absent, consent to have such evidence as is given in English taken down in English, the Judge may so take it down in his own hand.

When evidence may be taken in English.

It shall be in the discretion of the Court to take down, or cause to be taken down, any particular question and answer, if there shall appear any special reason for so doing or any party or his pleader shall require it.

Objection made to questions.

If any question put to a witness be objected to by either of the parties or their pleaders, and the Court shall allow the same to be put, the question and answer shall be taken down, and the objection, and the name of the party making it, shall be noticed in taking down the depositions, together with the decision of the Court upon the objection.

The Court shall record such remarks as it may think material respecting the demeanor of the witness while under examination.

Memorandum of substance of evidence to be made by Judge as each witness is examined.

In cases in which the evidence is not taken down in writing by the Judge himself, he shall be bound, as the examination of each witness proceeds, to make a memorandum of the substance of what such witness deposes, and such memorandum shall be written and signed by the Judge with his own hand, and shall accompany the record.

How evidence taken in cases not appealable.

In cases in which an appeal does not lie to a higher tribunal, it shall not be necessary to take down the depositions of the witnesses in writing at length; but the Judge, as the examination of each witness proceeds, shall make a memorandum of the substance of what such witness deposes, and such memorandum shall be written and signed by the Judge with his own hand, and shall form part of the record.

Judge unable to make memorandum of evidence, to record reason of inability.

If the Judge shall be prevented from making a memorandum as above required, he shall record the reason of his inability to do so, and in cases not appealable shall cause such memorandum to be made in writing from his dictation in open Court and shall sign the same, and such memorandum shall form part of the record.

A witness may for sufficient cause be examined immediately.

173. If a witness be about to leave the jurisdiction of the Court, or other good and sufficient cause can be shown to the satisfaction of the Court why his examination should be taken immediately, it shall be competent to the Court, upon the application of either party or of the witness, at any time after the institution of the suit, to take the examination of such witness forthwith, or on any day that may be fixed for that purpose, of which due notice shall be given to the parties if the day be fixed in their absence. The witness shall be examined, and his deposition shall be taken down in writing, in the manner hereinbefore prescribed; and the deposition so taken down may be read in evidence at any hearing of the suit.

Witness to be examined upon oath or according to the law for the time being.

174. All witnesses shall be examined upon oath or affirmation or otherwise according to the provisions of the law for the time being in force in relation to the examination of witnesses.

Of Commissions to examine absent Witnesses and make local Enquiries.

175. When the evidence of a witness is required who is resident at some place distant more than a hundred miles from the place where the Court is held, or who is unable from sickness or infirmity to attend before the Court to be personally examined, or is a person exempted by reason of rank or sex from personal appearance in Court, the Court may, of its own motion, or on the application of any of the parties to the suit, or on the representation of the witness, order a commission to issue for the examination of such witness on interrogatories or otherwise; and may, by the same or any subsequent order, give all such directions for taking such examinations as may appear reasonable and just.

When Court may issue commission to examine witnesses.

If the witness be resident within the jurisdiction of the Court issuing the commission, the commission may be issued to any officer of the Court, or to any subordinate Court, or to any other person or persons whom the Court issuing the commission may think proper to appoint.

When witness resides within Court's jurisdiction.

If the witness be resident at some place which is beyond the jurisdiction of the Court issuing the commission and not within the local jurisdiction of Her Majesty's Supreme Court, but within the jurisdiction of the Sadr Court, the commission shall ordinarily be issued to the Court within whose jurisdiction the witness may reside, and which can most conveniently execute the same; but, under special circumstances, the commission may be issued to any other person or persons whom the Court issuing the commission may think proper to appoint.

When witness resides beyond Court's jurisdiction, and not within presidency town, but within jurisdiction of Sadr Court.

176. If the witness be resident within the local jurisdiction of Her Majesty's Supreme Court, the commission shall ordinarily be issued to the Court of Small Causes held under Act IX of 1850 *(for the more easy recovery of small debts and demands in Calcutta, Madras and Bombay)*, but may, under special circumstances, be directed to any person or persons whom the Court issuing the commission may think proper to appoint.

When witness is within presidency town.

177. When the evidence of a witness is required, who is resident at some place not within the jurisdiction of the Sadr Court or of Her Majesty's Supreme Court, but within the British territories in India or within the territories of a Native Prince or State in alliance with the British Government, the Court, if it be satisfied that the evidence of such witness is necessary, may, of its own motion or on the representation of any of the parties to the suit, issue a commission for the examination of the witness; provided that, if the suit be pending in any Court subordinate to the principal civil Court of a district, such subordinate Court shall not issue the commission but the principal civil

When witness is not within jurisdiction of Sadr Court or presidency town, but within British India or territories of allied Native Prince or State.

Court of the district may issue the commission on the application of the subordinate Court.

When witness is beyond British India and not within territories of allied Native Prince or State.

178. When the evidence of a witness is required, who is resident at some place beyond the said territories and not within the territories of a Native Prince or State in alliance with the British Government, the Sadr Court, if the suit in which the evidence of the witness is required be pending in that Court and the Court be satisfied that such evidence is necessary, may, of its own motion or on the application of any of the parties to the suit, issue a commission to examine the witness; if the suit be not pending in the Sadr Court, that Court may issue the commission on the application of the Court in which the suit is pending. In all such cases, the commission may be issued to any person or persons whom the Sadr Court may think proper to appoint.

Commission to be returned to the Court issuing it with depositions.

179. After the commission has been duly executed it shall be returned, together with the deposition of the witness who may have been examined thereunder, to the Court out of which the commission issued, unless otherwise directed by the order for issuing the commission; in which case it shall be returned in terms of such order, and the commission and the return thereto and the deposition of the witness who may have been examined under such commission shall in all cases form part of the record of the suit. But no deposition taken under a commission shall be read in evidence without the consent of the party against whom the same may be offered, unless it be proved that the deponent is beyond the jurisdiction of the Court, or dead, or unable from sickness or infirmity to attend to be personally examined, or distant, without collusion, more than a hundred miles from the place where the Court is held, or exempted by reason of rank or sex from personal appearance in Court, or unless the Court shall, at its discretion, dispense with the proof of any of the above circumstances, or shall authorize the deposition of any witness being read in evidence, notwithstanding proof that the causes for taking such deposition have ceased at the time of reading the same.

When depositions may be read in evidence.

Commission for local investigations.

180. In any suit or other judicial proceeding in which the Court may deem a local investigation to be requisite or proper for the purpose of elucidating the matters in dispute, or of ascertaining the market-value of any property or[a] the amount of any mesne profits, or damages, or annual nett profits,[b] the Court may issue a commission to an officer of the Court appointed to execute such commissions, or, if there be no such officer, to any suitable person, directing him to make such investigation and to report thereon to the Court.

a, b See Act No. VII of 1870, section 10, clause iii.

In all such cases, unless otherwise directed by the order of appointment, the commissioner shall have power to examine any witnesses who may be produced to him by the parties or any of them, the parties themselves, and any other persons whom he may think proper to call upon to give evidence in the matters referred to him; and also to call for and examine documents and other papers relevant to the subject of enquiry; and persons not attending on the requisition of the commissioner, or refusing to give their testimony or to produce any documents or other papers, shall be subject to the like disadvantages, penalties, and punishments, by order of the Court on the report of the commissioner, as they would incur for the same offences in suits tried before the Court.

The commissioner, after such local inspection as he may deem necessary, and after reducing to writing, in the manner hereinbefore prescribed for taking the depositions of witnesses in the presence of the Judge, the depositions taken by him, shall return the depositions, together with his report in writing, subscribed with his name, to the Court.

Report and depositions to be taken as evidence. Commissoner may be examined in person.

The report and depositions shall be taken as evidence in the suit and shall form part of the record; but it shall be competent to the Court, or to the parties to the suit or any of them, with the permission of the Court, to examine the commissioner personally in open Court touching any of the matters referred to him or mentioned in his report, or the manner in which he may have conducted the investigation.

Commission to investigate and adjust accounts.

181. In any suit or other judicial proceeding in which an investigation or adjustment of accounts may be necessary, it shall be lawful for the Court to appoint such officer or other person as aforesaid to be a commissioner for the purpose of making such investigation or adjustment, and to direct that the parties or their attorneys or pleaders shall attend upon the commissioner during such investigation or adjustment.

In all such cases, the Court shall furnish the commissioner with such part of the proceedings and such detailed instructions as may appear necessary for his information and guidance; and the instructions shall distinctly specify whether the commissioner is merely to transmit the proceedings which he may hold on the enquiry, or also to report his own opinion on the point referred for his investigation.

The proceedings of the commissioner shall be received in evidence in the case, unless the Court may have reason to be dissatisfied with them, in which case the Court shall make such further enquiry as may be requisite, and shall pass such ultimate judgment or order as may appear to it to be right and proper in the circumstances of the case.

Expenses of commission to be paid into Court before issue thereof

182. Whenever a commission is issued either for taking evidence or for a local investigation or an investigation into accounts, the Court, before issuing the commission, may order such sum as may be thought reasonable for the expenses of the commission to be paid into Court by the party at whose instance or for whose benefit the commission is issued.

Of Judgment and Decree.

When judgment is to be pronounced.

183. When the exhibits have been perused, the witnesses examined, and the parties heard in person or by their respective pleaders, the Court shall pronounce its judgment. The judgment shall be pronounced in open Court, either immediately or on some future day of which due notice shall be given to the parties or their pleaders.

Judgment to be written in the vernacular language of the Judge.

Proviso.

184. The judgment shall be written in the vernacular language of the Judge. Provided that, if the vernacular language of the Judge be not English and the Judge be sufficiently conversant with the English language to be able to write a clear and intelligible decision in that language, and prefer to write his judgment in it, the judgment may be written in English.

Judgment what to contain.

Judgment to be translated.

185. The judgment shall contain the point or points for determination, the decision thereupon, and the reasons for the decision, and shall be dated and signed by the Judge in open Court at the time of pronouncing it. Whenever the judgment is written in any other language than that which is in ordinary use in the Court, the judgment shall be translated into the language in ordinary use in the Court, and the translation shall also be signed by the Judge.

Court to state its decision on each issue.

Proviso.

186. In all suits in which issues have been framed, the Court shall state its finding or decision on each separate issue, unless the finding upon any one or more of the issues be sufficient for the decision of the suit.

Judgment to to direct by whom costs are to be paid.

187. The judgment shall in all cases direct by whom the costs of each party are to be paid, whether by himself or by another party, and whether in whole or in what part or proportion; and the Court shall have full power to award and apportion costs in any manner it may deem proper.

What is included under the denomination of costs.

188. Under the denomination of costs are included the whole of the expenses necessarily incurred by either party on account of the suit, and in enforcing the decree passed therein, such as the expense of stamps, of summoning the defendants and witnesses, and of other processes, or of procuring copies of documents, fees of pleaders, charges of witnesses, and expenses of commissioners either in taking evidence or in local investigations or in investigations into accounts.

Decree.

189. The decree shall bear date the day on which the judgment was passed. It shall contain the number of the suit, the names and descriptions

of the parties, and particulars of the claim, as stated in the register of the suit, and shall specify clearly the relief granted or other determination of the suit. It shall also state the amount of costs incurred in the suit, and by what parties and in what proportions they are to be paid, and shall be signed by the Judge and sealed with the seal of the Court.

190. When the suit is for land or other immoveable property with specified boundaries, if the decree be for the recovery of a portion only of such property, it shall specify the boundaries of the land or property adjudged.

Decree for recovery of portion of immoveable property.

191. When the suit is for moveable property, if the decree be for the delivery of such property, it shall also state the amount of money to be paid as an alternative if delivery cannot be had.

Decree for delivery of moveables.

192. When the suit is for damages for breach of contract, if it appear that the defendant is able to perform the contract, the Court with the consent of the plaintiff may decree the specific performance of the contract within a time to be fixed by the Court, and in such case shall award an amount of damages to be paid as an alternative if the contract is not performed.

Decree for damages for breach of contract.

193. [*Repealed by Act No. XXIII of* 1861, *section* 1.]

194. In all decrees for the payment of money, the Court may for any sufficient reason order that the amount shall be paid by instalments with or without interest.

Payment by instalments.

195. If the defendant shall have been allowed to set-off any demand against the claim of the plaintiff, the decree shall state what amount is due to the plaintiff and what amount (if any) is due to the defendant, and shall be for the recovery of any sum which shall appear to be due to either party. The decree of the Court with respect to any sum awarded to the defendant shall have the same effect and be subject to the same rules as if such sum had been claimed by the defendant in a separate suit against the plaintiff.

If set-off be allowed.

Effect of decree.

196. When the suit is for land or other property paying rent, the Court may provide in the decree for the payment of mesne profits or rent on such land or other property from the date of the suit until the date of delivery of possession to the decree-holder with interest thereupon at such rate as the Court may think proper.

When suit is for land, Court may provide in decree for payment of mesne profits with interest.

197. When the suit is for land and for mesne profits which have accrued thereon during a period prior to the date of suit, and the amount of such profits is disputed, the Court may either determine the amount prior to passing a decree for the land, or may pass a decree for the land and reserve the enquiry into the amount of mesne profits for the execution of the decree according as may appear most convenient.

Court may determine amount of mesne profits prior to passing decree or may reserve enquiry.

Certified copies of decree and judgment.

198. Certified copies of the decree and judgment shall be furnished to the parties or their pleaders on application to the Court, and on the production of the necessary stamps where stamps are required by any law for the time being in force.*

CHAPTER IV.

EXECUTION OF DECREES.

Decree for immoveable property.

199. If the decree be for land or other immoveable property, the same shall be delivered over to the party to whom it shall have been adjudged.

Decree for specific moveable or specific performance.

200. If the decree be for any specific moveable, or for the specific performance of any contract, or for the performance of any other particular act, it shall be enforced by the seizure, if practicable, of the specific moveable and the delivery thereof to the party to whom it shall have been adjudged, or by imprisonment of the party against whom the decree is made, or by attaching his property and keeping the same under attachment until further order of the Court, or by both imprisonment and attachment if necessary; or if alternative damages be awarded, by levying such damages in the mode hereinafter provided for the execution of a decree for money.

Alternative damages.

Decree for money.

201. If the decree be for money, it shall be enforced by the imprisonment of the party against whom the decree is made, or by the attachment and sale of his property, or by both if necessary; and if such party be other than a defendant, the decree may be enforced against him in the same manner as a decree may be enforced under the provisions of this chapter against a defendant. When the decree is against Government or against any officer acting on behalf of Government, if the officer whose duty it is to satisfy the decree neglect or refuse to satisfy the same, the Court shall report the case through the Sadr Court for the orders of Government, and execution shall not issue on the decree unless the same shall remain unsatisfied for the space of three months from the date of such report.

Decrees for execution of conveyances, or endorsement of negotiable instruments.

202. If the decree be for the execution of a conveyance or for the endorsement of a negotiable instrument, and the party ordered to execute or endorse such conveyance or negotiable instrument shall neglect or refuse so to do, any party interested in having the same executed or endorsed may prepare a conveyance or endorsement of the instrument in accordance with the terms of the decree, and tender the same to the Court, for execution upon the proper stamp (if any is required by law), and the signature thereof by the Judge shall have

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* See Act No. VII of 1870, schedule I, No. 7.

the same effect as the execution or endorsement thereof by the party ordered to execute.

203. If the decree be against a party as the representative of a deceased person, and such decree be for money to be paid out of the property of the deceased person, it may be executed by the attachment and sale of any such property, or, if no such property can be found and the defendant fail to satisfy the Court that he has duly applied such property of the deceased as shall be proved to have come into his possession, the decree may be executed against the defendant to the extent of the property not duly applied by him, in the same manner as if the decree had been against the defendant personally.

Decree against representatives of deceased persons.

204. Whenever a person has become liable as security for the performance of a decree or of any part thereof, the decree may be executed against such person to the extent to which he has rendered himself liable, in the same manner as a decree may be enforced against a defendant.

Decree executed against sureties.

205. The following property is liable to attachment and sale in execution of a decree, namely, lands, houses, goods, money, bank-notes, cheques, bills of exchange, promissory notes, Government securities, bonds, or other securities for money, debts, shares in the capital or joint-stock of any railway, banking, or other public company or corporation, and all other property whatsoever, moveable or immoveable, belonging to the defendant, and whether the same be held in his own name or by another person in trust for him, or on his behalf.

Property liable to attachment and sale in execution.

206. All monies payable under a decree shall be paid into the Court whose duty it is to execute the decree, unless such Court or the Court which passed the decree shall otherwise direct. No adjustment of a decree in part or in whole shall be recognized by the Court unless such adjustment be made through the Court or be certified to the Court by the person in whose favour the decree has been made or to whom it has been transferred.

Payment of monies under decrees, &c.

Adjustment of decree to be made through Court.

Application for Execution.

207. When any party in whose favour a decree has been made is desirous of enforcing the same, he shall apply to the Court whose duty it is to execute the decree either in person or through his pleader in the suit or some other pleader duly appointed to act for him in that behalf. If there be two or more decree-holders, one or more of them may make the application, if the Court shall see sufficient cause for allowing him or them to make such application; and the Court shall in such case pass such order as it may deem necessary for protecting the interests of the other decree-holders.

Application for execution how made.

208. If a decree shall be transferred by assignment or by operation of law from the original decree-holder to any other person, application for the

Application by whom to be made, if decree

be transferred from original decree-holder.

execution of the decree may be made by the person to whom it shall have been so transferred or his pleader; and if the Court shall think proper to grant such application, the decree may be executed in the same manner as if the application were made by the original decree-holder.

Cross-decrees.

209. If there be cross-decrees between the same parties for the payment of money, execution shall be taken out by that party only who shall have obtained a decree for the larger sum, and for so much only as shall remain after deducting the smaller sum, and satisfaction for the smaller sum shall be entered on the decree for the larger sum as well as satisfaction on the decree for the smaller sum, and if both sums shall be equal, satisfaction shall be entered upon both decrees.

The above rules shall apply to decrees sent to a Court for execution as well as to decrees in the same Court.

Whenever a suit shall be pending in any Court against the holder of a decree of such Court, by the person or persons against whom the decree was passed, the Court may, if it appear just and reasonable to do so, stay execution on the decree either absolutely or on such terms as it may think just, until a decree shall be passed in the pending suit.

Application against legal representative or estate of person dying before execution of decree against him.

210. If any person against whom a decree has been made shall die before execution has been fully had thereon, application for execution thereof may be made against the legal representative or the estate of the person so dying as aforesaid; and if the Court shall think proper to grant such application, the decree may be executed accordingly.

Execution of decree against legal representative.

211. If the decree be ordered to be executed against the legal representative, it shall be executed in the manner provided in section 203 for the execution of a decree for money to be paid out of the property of a deceased person.

Form and contents of application for execution.

212. The application for execution of a decree shall be in writing, and shall contain in a tabular form the following particulars, namely, the number of the suit, the names of the parties, the date of the decree, whether any appeal has been preferred from the decree and whether any and what adjustment of the matter in dispute has been made between the parties subsequently to the decree; the amount of the debt or damages due upon it, or other relief granted by the decree; the amount of costs, if any were awarded; the name of the person against whom the enforcement of the decree is sought; and the mode in which the assistance of the Court is required, whether by the delivery of property specifically decreed, the arrest and imprisonment of the person named, or attachment of his property, or otherwise as the case may be.

Further particulars when application is

213. When the application is for an attachment of any land or other immoveable property belonging to the defendant, it shall be accompanied with

an inventory or list of such property containing such a description of the property as may be sufficient to identify it, together with a specification of the defendant's share or interest therein, to the best of the applicant's belief and so far as he has been able to ascertain the same. And where the property is an estate paying revenue to Government or any portion of such estate, the application for an attachment shall be accompanied with an authenticated extract from the register of the collector's office, specifying the revenue of such estate, and the names and (where registered) the shares of the registered proprietors.

for attachment of immoveable property.

214. Where the application is for an attachment of the defendant's moveable property or any part thereof, it may be accompanied with an inventory or list of the property to be attached, containing a reasonably accurate description thereof; or the applicant may apply for a general attachment of the defendant's moveable property wheresoever the same can be found, to the amount of the judgment and costs.

Application for attachment of moveables may be general, or accompanied with inventory.

215. [*Repealed by Act No. XXIII of* 1861, *section* 1. *Replaced by sec.* 15 *of that Act.*]

MEASURES REQUIRED IN CERTAIN CASES PRELIMINARY TO THE ISSUE OF THE WARRANT.

216. If an interval of more than one year shall have elapsed between the date of the decree and the application for its execution, or if the enforcement of the decree be applied for against the heir or representative of an original party to the suit, the Court shall issue a notice to the party against whom execution may be applied for requiring him to show cause, within a limited period to be fixed by the Court, why the decree should not be executed against him.

When notice to show cause why decree should not be executed shall be issued.

Provided that no such notice shall be necessary in consequence of an interval of more than one year having elapsed between the date of the decree and the application for execution, if the application be made within one year from the date of the last order passed on any previous application for execution; and provided further that no such notice shall be necessary in consequence of the application being against an heir or representative, if upon a previous application for execution against the same person, the Court shall have ordered execution to issue against him.

Proviso.

217. When such notice is issued, if the party shall not attend in person or by a pleader, or shall not show sufficient cause to the satisfaction of the Court why the decree should not be forthwith executed, the Court shall order it to be executed accordingly. If the party shall attend in person or by a pleader, and shall offer any objection to the enforcement of the decree, the

Procedure after issue of notice.

Court shall pass such order as in the circumstances of the case may appear to be just and proper.

Application for general attachment of moveable property.

218. Where the application is for a general attachment of the moveable property of the defendant, it shall be competent to the Court, if it shall think proper, before issuing an order for such attachment, to require the applicant to give security to the satisfaction of the Court, in such sum as may be considered adequate, for any injury that may be occasioned by the attachment of property belonging to any other person than the defendant.

Power to make enquiries as to property to be attached.

219. Before granting the order for a general attachment or at the instance of the plaintiff at any time after judgment and before complete execution of the decree, the Court may summon the person against whom the application is made and examine him as to the property liable to be seized in satisfaction of the judgment. The Court may also, of its own motion or at the instance of any person interested in the enquiry, summon any other person whom it may think necessary and examine him in respect to such property, and may require the person summoned to produce all deeds and documents in his possession or power relating to such property.

Rules as to summoning and examination of parties and witnesses after judgment.

220. In all cases in which a summons may be issued for the attendance of a party to a suit or any other person at any time after judgment, the rules applicable to the summoning and examination of parties and witnesses after issues recorded, shall apply to the party or witnesses so summoned.

Issue of the Warrant.

Warrant when to issue.

221. When all necessary preliminary measures have been taken, where any such are required, the Court, unless it see cause to the contrary, shall issue the proper warrants for the execution of the decree.

Latest day of execution to be written in warrant, and time and manner of execution to be endorsed.

222. Every warrant for the execution of a decree shall bear the date of the day on which it is issued, and shall be signed by the Judge and sealed with the seal of the Court, and delivered to the Názir or other proper officer of the Court. A day shall be specified in the warrant on or before which it must be executed, and the Názir or other proper officer shall endorse upon the warrant the day and the manner in which it was executed, or if it was not executed the reason why it was not executed, and shall return it with such endorsement to the Court from which it issued.

Of the Execution of Decrees for Immoveable Property.

How immoveable property is to be delivered when in occupancy of defendant

223. If the decree be for a house, land, or other immoveable property in the occupancy of a defendant or some person on his behalf, or of some person claiming under a title created by the defendant subsequently to the institution of the suit, the Court shall order delivery thereof to be made by putting the

party to whom the house, land, or other immoveable property may have been adjudged, or any person whom he may appoint to receive delivery on his behalf, in possession thereof, and if need be, by removing any person who may refuse to vacate the same.

or of some person under him.

224. If the decree be for land or other immoveable property in the occupancy of ryots or other persons entitled to occupy the same, the Court shall order delivery thereof to be made by affixing a copy of the warrant in some conspicuous place on the land or other immoveable property, and proclaiming to the occupants of the property by beat of drum, or in such other mode as may be customary, at some convenient place or places, the substance of the decree in regard to the property.

How delivered when in occupancy of ryots.

225. If the decree be for the division of an estate or for the separate possession of a share of an undivided estate paying revenue to Government, the division of the estate or the separation of the share shall be made by the collector under the orders of the Court according to the rules in force for the partition of an estate paying revenue to Government.

Division of estate or separation of share how made.

226. If in the execution of a decree for land or other immoveable property, the officer executing the same shall be resisted or obstructed by any person, the person in whose favour such decree was made may apply to the Court at any time within one month from the time of such resistance or obstruction. The Court shall fix a day for investigating the complaint, and shall summon the party against whom the complaint is made to answer the same.

Obstruction to execution of decree for immoveable property.

227. If it shall appear to the satisfaction of the Court that the obstruction or resistance was occasioned by the defendant or by some person at his instigation on the ground that the land or other immoveable property is not included in the decree, or on any other ground, the Court shall enquire into the matter of the complaint and pass such order as may be proper under the circumstances of the case.

Obstruction by defendant.

228. If the Court shall be satisfied, after such investigation of the facts of the case as it may deem proper, that the resistance or obstruction complained of was without any just cause and that the complainant is still resisted or obstructed in obtaining effectual possession of the property adjudged to him by the decree, by the defendant or some person at his instigation, the Court may, at the instance of the plaintiff and without prejudice to any proceedings to which such defendant or other person may be liable under any law for the time being in force for the punishment of such resistance or obstruction, commit the defendant or such other person to close custody for such period not exceeding thirty days as may be necessary to prevent the continuance of such obstruction or resistance.

Procedure where defendant persists in obstructing complainant.

Obstruction by a *bonâ fide* claimant other than defendant.

229. If it shall appear to the satisfaction of the Court that the resistance or obstruction to the execution of the decree has been occasioned by any person, other than the defendant, claiming *bonâ fide* to be in possession of the property on his own account or on account of some other person than the defendant, the claim shall be numbered and registered as a suit between the decree-holder as plaintiff and the claimant as defendant, and the Court shall without prejudice to any proceedings to which the claimant may be liable under any law for the time being in force for the punishment of such resistance or obstruction, proceed to investigate the claim in the same manner and with the like power as if a suit for the property had been instituted by the decree-holder against the claimant under the provisions of this Act, and shall pass such order for staying execution of the decree, or executing the same, as it may deem proper in the circumstances of the case.

Procedure in certain cases if person dispossessed of immoveable property dispute the right of decree-holder to be put into possession.

230. If any person other than the defendant shall be dispossessed of any land or other immoveable property in execution of a decree and such person shall dispute the right of the decree-holder to dispossess him of such property under the decree on the ground that the property was *bonâ fide* in his possession on his own account or on account of some other person than the defendant, and that it was not included in the decree, or, if included in the decree, that he was not a party to the suit in which the decree was passed, he may apply to the Court;[a] and if, after examining the applicant, it shall appear to the Court that there is probable cause for making the application, the application shall be numbered and registered as a suit between the applicant as plaintiff, and the decree-holder as defendant, and the Court shall proceed to investigate the matter in dispute in the same manner and with the like powers as if a suit for the property had been instituted by the applicant against the decree-holder.

Appeal from decision under the last two sections.

231. The decision passed by the Court under either of the last two sections shall be of the same force as a decree in an ordinary suit, and shall be subject to appeal under the rules applicable to appeals from decrees; and no fresh suit shall be entertained in any Court between the same party or parties claiming under them in respect of the same cause of action.

Of the Execution of Decrees for Money by Attachment of Property.

Attachment of property in execution of decree for money.

232. If the decree be for money, and the amount thereof is to be levied from the property of the person against whom the same may have been pronounced, the Court shall cause the property to be attached in the manner following.

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[a] Within thirty days from the date of the dispossession—see Act No. IX of 1871, schedule II, No. 158.

233. Where the property shall consist of goods, chattels, or other moveable property in the possession of the defendant, the attachment shall be made by actual seizure, and the Názir or other officer shall keep the same in his own custody, or in the custody of his subordinates, and shall be responsible for the due custody thereof.

Attachment by seizure of moveables in possession of defendant.

234. Where the property shall consist of goods, chattels, or other moveable property to which the defendant is entitled subject to a lien or right of some other person to the immediate possession thereof, the attachment shall be made by a written order prohibiting the person in possession from giving over the property to the defendant.

Attachment of moveables to which defendant is entitled subject to a lien.

235. Where the property shall consist of lands, houses, or other immoveable property, the attachment shall be made by a written order prohibiting the defendant from alienating the property by sale, gift, or in any other way, and all persons from receiving the same by purchase, gift, or otherwise.

Attachment of immoveable property.

236. Where the property shall consist of debts not being negotiable instruments, or of shares in any railway, banking, or other public company or corporation, the attachment shall be made by a written order prohibiting the creditor from receiving the debts, and the debtor from making payment thereof to any person whomsoever, until the further order of the Court, or prohibiting the person in whose name the shares may be standing from making any transfer of the shares or receiving payment of any dividends thereof, and the manager, secretary, or other proper officer of the company or corporation from permitting any such transfer or making any such payment, until such further order.

Attachment of debts not founded on negotiable instruments, and of shares

237. Where the property shall consist of money, or of any security, in deposit in any Court of Justice or in the hands of any officer of Government, which is or may become payable to the defendant or on his behalf, the attachment shall be made by a notice to such Court or officer requesting that the money or security may be held subject to the further order of the Court by which the notice may be issued.

Attachment of money or securities in deposit in Court or with Government officer.

Provided that, if such money or security is in deposit in any Court of Justice, any question of title or priority which may arise between the decree-holder and any other person, not being the defendant, claiming to be interested in such money or security by virtue of any assignment, attachment, or otherwise, shall be determined by the Court in which such money or security is in deposit.

Proviso.

238. Where the property shall consist of a negotiable instrument, the attachment shall be made by actual seizure, and the Názir or other officer shall bring the same into Court, and such instrument shall be held subject to the further orders of the Court.

Attachment of negotiable instruments by seizure.

When the attachment is by prohibitory order, how the order is to be made known.

239. In the case of goods, chattels, or other moveable property not in the possession of the defendant, the written order shall be fixed up in some conspicuous part of the Court-house, and a copy of the order shall be delivered or sent registered by post to the person in possession of the property.

In the case of lands, houses or other immoveable property, the written order shall be read aloud at some place on or adjacent to such lands, houses, or other property, and shall be fixed up in some conspicuous part of the Court-house; and when the property is land or any interest in land, the written order shall also be fixed up in the office of the collector of the zila in which the land may be situated.

In the case of debts, the written order shall be fixed up in some conspicuous part of the Court-house, and copies of the written order shall be delivered or sent registered by post to each individual debtor.

And in the case of shares in the capital or joint-stock of any railway, banking, or other public company or corporation, the written order shall in like manner be fixed up in some conspicuous part of the Court-house, and a copy of the order shall be delivered or sent registered by post to the manager, secretary, or other proper officer of the company or corporation.

Any private alienation of property after attachment to be void.

240. After any attachment shall have been made by actual seizure, or by written order as aforesaid, and in the case of an attachment by written order after it shall have been duly intimated and made known in manner aforesaid, any private alienation of the property attached, whether by sale, gift or otherwise, and any payment of the debt or debts or dividends or shares to the defendant during the continuance of the attachment, shall be null and void.

Payment into Court by debtor prohibited from paying his creditor.

241. In every case in which a debtor shall be prohibited from making payment of his debt to the creditor, he may pay the amount into Court, and such payment shall have the same effect as payment to the party entitled to receive the debt.

Court may direct money or bank-notes to be paid to plaintiff;

or proceeds of sale of other attached property.

242. In all cases of attachment under the preceding sections, it shall be competent to the Court, at any time during the attachment, to direct that any part of the property so attached as shall consist of money or bank-notes, or a sufficient part thereof, shall be paid over to the party applying for execution of the decree; or that any part of the property so attached as may not consist of money or bank-notes, so far as may be necessary for the satisfaction of the decree, shall be sold, and that the money which may be realized by such sale, or a sufficient part thereof, shall be paid to such party.

Where the property attached consists of debts or im-

243. When the property attached shall consist of debts due to the party who may be answerable for the amount of the decree, or of any lands, houses, or other immoveable property, it shall be competent to the Court to appoint a

manager of the said property, with power to sue for the debts, and to collect the rents or other receipts and profits of the land or other immoveable property, and to execute such deeds or instruments in writing as may be necessary for the purpose, and to pay and apply such rents, profits, or receipts towards the payment of the amount of the decree and costs; or when the property attached shall consist of land, if the judgment-debtor can satisfy the Court that there is reasonable ground to believe that the amount of the judgment may be raised by the mortgage of the land, or by letting it on lease, or by disposing by private sale of a portion of the land or of any other property belonging to the judgment-debtor, it shall be competent to the Court, on the application of the judgment-debtor, to postpone the sale for such period as it may think proper to enable the judgment-debtor to raise the amount.

moveable property, a manager may be appointed.

Court may postpone sale of land if satisfied that amount of judgment may be raised by mortgage, &c.

In any case in which a manager shall be appointed under this section, such manager shall be bound to render due and proper accounts of his receipts and disbursements from time to time as the Court may direct.

Manager to render accounts.

244. When in any district, where land paying revenue to Government is ordinarily sold by the collector, as provided in section 248, the property attached shall consist of any such land, or of a share in any such land, if the collector shall represent to the Court that the public sale of the land or share is objectionable, and that satisfaction of the decree may be made within a reasonable period by a temporary alienation of the land or share, the Court may authorize the collector, on security for the amount of the decree or for the value of such land or share being given, to make provision for such satisfaction in the manner recommended by the collector, instead of proceeding to a public sale of the land or share.

When Court may authorize collectors to stay public sale of land.

On security being given.

245. If the amount decreed with costs and all charges and expenses which may be incurred by the attachment be paid into Court, or if satisfaction of the decree be otherwise made, an order shall be issued for the withdrawal of the attachment; and if the defendant shall desire it and shall deposit in Court a sum sufficient to cover the expense, the order shall be proclaimed or intimated in the same manner as hereinbefore prescribed for the proclamation or intimation of the attachment; and such steps shall be taken as may be necessary for staying further proceedings in execution of the decree.

Order for withdrawal of attachment after satisfaction of the decree.

Of Claims to attached Property.

246. In the event of any claim being preferred to, or objection offered against, the sale of lands or any other immoveable or moveable property which may have been attached in execution of a decree or under any order for attachment passed before judgment, as not liable to be sold in execution of a decree

How claims and objections to sale of attached property are to

be investigated.

against the defendant, the Court shall, subject to the proviso contained in the next succeeding section, proceed to investigate the same with the like powers as if the claimant had been originally made a defendant to the suit, and also with such powers as regards the summoning of the original defendant as are contained in section 220. And if it shall appear to the satisfaction of the Court that the land or other immoveable or moveable property was not in the possession of the party against whom execution is sought, or of some other person in trust for him, or in the occupancy of ryots or cultivators or other persons paying rent to him at the time when the property was attached, or that, being in the possession of the party himself at such time, it was so in his possession not on his own account or as his own property, but on account of or in trust for some other person, the Court shall pass an order for releasing the said property from attachment.

But if it shall appear to the satisfaction of the Court that the land or other immoveable or moveable property was in possession of the party against whom execution is sought, as his own property, and not on account of any other person, or was in the possession of some other person in trust for him, or in the occupancy of ryots or cultivators or other persons paying rent to him at the time when the property was attached, the Court shall disallow the claim.

The order which may be passed by the Court under this section shall not be subject to appeal, but the party against whom the order may be given shall be at liberty to bring a suit to establish his right[a].

Claims and objections to be preferred at the earliest opportunity.

247. The claim or objection shall be made at the earliest opportunity to the Court which shall have ordered the attachment; and if the property to which the claim or objection applies, shall have been advertised for sale, the sale may (if it appears necessary) be postponed for the purpose of making the investigation mentioned in the last preceding section.

Provided that no such investigation shall be made if it appear that the making of the claim or objection was designedly and unnecessarily delayed with a view to obstruct the ends of justice.

The order disallowing the investigation shall not be subject to appeal, and the claimant shall be left to prosecute his claim by a regular suit.

Of Sales in Execution of Decrees.

Sales to be by public auction.

248. Sales in execution of decrees shall be conducted by an officer of the Court or by any other person whom the Court may appoint, and shall in all cases be made by public auction in manner hereinafter mentioned.

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[a] See Act No. IX of 1871, schedule II, No. 118.

Provided that if the property to be sold shall consist of negotiable securities or of shares in any railway, banking, or other public company or corporation, it shall be competent to the Court, instead of directing the sale to be made by public auction, to authorize the sale of such securities or shares through a broker at the market-rate of the day.

Exception as to negotiable securities and shares in public companies.

If the property to be sold shall be land paying revenue to Government and the Government shall so direct, the sale shall be conducted by the collector on the requisition of the Court.

Sale by collector of revenue-paying lands.

249. In all cases of intended sale by public auction, whether of moveable or immoveable property, in execution of a decree, a proclamation of the intended sale, specifying the time and place of sale, the property to be sold, the revenue assessed upon the estate when the property to be sold is an estate or a part of an estate paying revenue to Government, and the amount for the recovery of which the sale is ordered, together with any other particulars that the Court may think necessary, shall be made in the current language of the district. The proclamation shall also declare that the sale extends only to the right, title, and interest of the defendant in the property specified therein. Such proclamation shall be made on the spot where the property is attached by beat of drum or in such other mode as may be customary ; and a written notification to the same effect shall be affixed in the Court-house of the Judge who shall have ordered the sale, and in some conspicuous spot in the town or village in which the attachment may have taken place.

Notification of sales by public auction.

When the property ordered to be sold may consist of land or of any right or interest in land, the written notification shall also be affixed in the office of the collector of the district in which such land is situate and in the Court-house of the principal civil Court of the district where the Court which ordered the sale is subordinate to such Court.

The sale shall not take place until after the expiration of at least thirty days in the case of immoveable property, and of at least fifteen days in the case of moveable property, calculated from the date on which the notification shall have been affixed in the Court-house of the Judge ordering the sale.

Time of sale.

250. The usual process for attachment and sale when the property to be attached consists of goods, chattels, or other personal estate other than debts, may be issued either successively or simultaneously as the Court directing the sale may in each instance think proper.

How process for attachment and sale may issue.

251. In all cases of sale of moveable property, the price of every lot shall be paid for at the time of sale or as soon after as the officer holding the sale shall direct, and in default of such payment the property shall forthwith be

Mode of payment on sale of moveable property.

again put up and sold. On payment of the purchase-money, the officer holding the sale shall grant a receipt for the same, and the sale shall become absolute.

Effect of irregularity in sale of moveables.

252. No irregularity in the sale of moveable property under an execution shall vitiate the sale; but any person who may sustain any injury by reason of such irregularity may recover damages by a suit in Court.

Deposit by purchaser in case of sale of immoveable property.

253. In all cases of sale of immoveable property, the party who is declared to be the purchaser shall be required to deposit immediately twenty-five per centum on the amount of his bid, and in default of such deposit the property shall forthwith be again put up and sold.

At what time full amount of purchase-money to be made good.

Procedure on default.

254. The full amount of purchase-money shall be made good by the purchaser before sunset of the fifteenth day from that on which the sale of the property took place, or if the fifteenth day be a Sunday or other close holiday, then on the first office-day after the fifteenth day; and in default of payment within such period, the deposit, after defraying the expenses of the sale, shall be forfeited to Government, and the property shall be resold and the defaulting purchaser shall forfeit all claim to the property or to any part of the sum for which it may subsequently be sold. If the proceeds of the sale which is eventually consummated be less than the price bid by such defaulting purchaser, the difference shall be leviable from him under the rules for enforcing the payment of money in satisfaction of a decree of Court.

Defaulting purchaser answerable for loss by re-sale.

Notification on resale of immoveable property.

255. Every re-sale of immoveable property in default of payment of the purchase-money shall be made after the issue of a fresh notification in the manner and for the period prescribed for original sales.

Confirmation of sale.

256. No sale of immoveable property shall become absolute until the sale has been confirmed by the Court. Application may be made[a] to the Court to set aside the sale on the ground of any material irregularity in publishing or conducting the sale, but no sale shall be set aside on the ground of such irregularity unless the applicant shall prove to the satisfaction of the Court that he has sustained substantial injury by reason of such irregularity.

When sale to be confirmed and when set aside.

257. If no such application as is mentioned in the last preceding section be made, or if such application be made and the objection be disallowed, the Court shall pass an order confirming the sale; and in like manner if such application be made, and if the objection be allowed, the Court shall pass an order setting aside the sale for irregularity. If the objection be allowed, the order made to set aside the sale shall be final; if the objection be disallowed, the order confirming the sale shall be open to appeal; and such order, unless appealed from, and if appealed from, then the order passed on the appeal,

When the order to set aside a sale shall be open to appeal.

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[a] See Act No. IX of 1871, schedule II, No. 159.

shall be final; and the party against whom the same has been given shall be precluded from bringing a suit for establishing his claim.

258. Whenever a sale of immoveable property is set aside, the purchaser shall be entitled to receive back his purchase-money with or without interest in such manner as it may appear proper to the Court to direct in each instance.

If sale set aside, price to be returned to purchaser.

259. After a sale of immoveable property shall have become absolute in manner aforesaid, the Court shall grant a certificate to the person who may have been declared the purchaser at such sale to the effect that he has purchased the right, title, and interest of the defendant in the property sold, and such certificate shall be taken and deemed to be a valid transfer of such right, title, and interest.

Certificate to be granted to purchaser of land.

260. The certificate shall state the name of the person who at the time of sale is declared to be the actual purchaser, and any suit brought against the certified purchaser on the ground that the purchase was made on behalf of another person not the certified purchaser, though by agreement the name of the certified purchaser was used, shall be dismissed with costs.

Certificate to state name of actual purchaser.

261. Where the property sold shall consist of goods, chattels, or other moveable property in the possession of the defendant, or to the immediate possession of which the defendant is entitled, and of which actual seizure has been made, the property shall be delivered to the purchaser.

Delivery of moveable property in defendant's possession.

262. Where the property sold shall consist of goods, chattels, or other moveable property to which the defendant is entitled subject to a lien or right of any person to the immediate possession thereof, the delivery to the purchaser shall as far as practicable be made by giving notice to the person in possession prohibiting him from delivering possession of the property to any person except the purchaser thereof.

Delivery of moveable property to which defendant is entitled subject to lien.

263. If the property sold shall consist of a house, land, or other immoveable property, in the occupancy of a defendant or some person on his behalf or of some person claiming under a title created by the defendant subsequently to the attachment of such property, the Court shall order delivery thereof to be made by putting the party to whom the house, land, or other immoveable property may have been sold, or any person whom he may appoint to receive delivery on his behalf, in possession thereof, and, if need be, by removing any person who may refuse to vacate the same.

Delivery of immoveable property in occupancy of defendant.

264. If the property sold shall consist of land or other immoveable property in the occupancy of ryots or other persons entitled to occupy the same, the Court shall order delivery thereof to be made by affixing a copy of the certificate of sale in some conspicuous place on the land or other immoveable

Delivery of immoveable property in occupancy of ryots.

property, and proclaiming to the occupants of the property by beat of drum, or in such other mode as may be customary, at some convenient place or places, that the right, title, and interest of the defendant has been transferred to the purchaser.

Delivery of debts not founded on negotiable instruments, and of shares.

265. Where the property sold shall consist of debts not being negotiable instruments or of shares in any railway, banking or other public company or corporation, the delivery thereof shall be by a written order of the Court prohibiting the creditor from receiving the debts and the debtor from making payment thereof to any person or persons except the purchaser, or prohibiting the person in whose name the shares may be standing, from making any transfer of the shares to any person except the purchaser, or receiving payment of any dividends thereon, and the manager, secretary, or other proper officer of the company or corporation from permitting any such transfer or making any such payment to any person except the purchaser.

Delivery of negotiable securities actually seized.

266. Where the property sold shall consist of negotiable securities of which actual seizure has been made, the same shall be delivered to the purchaser thereof.

Transfer of securities and shares.

267. If the endorsement or conveyance of the party in whose name any negotiable security or any share in a public company or corporation is standing, shall be required to transfer the same, the Judge may endorse the security or the certificate of the share, or may execute such other document as may be necessary for transferring the same. The endorsement or execution shall be in the following form or to the like effect—"*A. B.*, by *C. D.*, Judge of the Court of (*or as the case may be*) ; in a suit by *E. F.* versus *A. B.*" Until the transfer of such security or share, the Judge may, by order, appoint some person to receive any interest or dividend due thereon, and to sign receipts for the same; and any endorsement made or document executed or receipts signed as aforesaid shall be as valid and effectual for all purposes, as if the same had been made or executed or signed by the party himself.

Resisting or obstructing purchasers in obtaining possession of property.

268. If the purchaser of any immoveable property sold in execution of a decree shall be resisted or obstructed in obtaining possession of the property, the provisions contained in sections 226, 227 and 228 relating to resistance or obstruction to a party in whose favour a suit has been decreed in obtaining possession of the property adjudged to him, shall be applicable in the case of such resistance or obstruction.

Obstruction by claimants other than defendants.

269. If it shall appear that the resistance or obstruction to the delivery of possession was occasioned by any person other than the defendant claiming a right to the possession of the property sold as proprietor, mortgagee, lessee,

or under any other title, or if in the delivery of possession to the purchaser any such person claiming as aforesaid shall be dispossessed, the Court, on the complaint of the purchaser, or of such person claiming as aforesaid,[a] shall enquire into the matter of the complaint and pass such order as may be proper in the circumstances of the case.

The order shall not be subject to appeal, but the party against whom it is given shall be at liberty to bring a suit to establish his right at any time within one year from the date thereof.

Attaching creditor to be first paid out of proceeds of property sold.

270. Whenever property is sold in execution of a decree, the person on whose application such property was attached shall be entitled to be first paid out of the proceeds thereof, notwithstanding a subsequent attachment of the same property by another party in execution of a prior decree.

Distribution of surplus among decree-holders taking out execution prior to distribution-order.

271. If after the claim of the person on whose application the property was attached has been satisfied in full from the proceeds of the sale, any surplus remain, such surplus shall be distributed rateably amongst any other persons who prior to the order for such distribution may have taken out execution of decrees against the same defendant and not obtained satisfaction thereof.

Mortgagee not entitled to share.

Provided that, when any property is sold subject to a mortgage, the mortgagee shall not be entitled to share in any surplus arising from such sale.

Power to order another decree-holder to be satisfied out of proceeds of property attached under a decree obtained fraudulently.

272. If it shall appear to the Court, upon the application of a decree-holder, that any other decree under which property has been attached was obtained by fraud or other improper means, the Court may order that the applicant shall be satisfied out of the proceeds of the property attached so far as the same may suffice for the purpose, if such other decree be a decree of that Court, or, if it be a decree of another Court, may stay the proceedings to enable the applicant to obtain a similar order from the Court by which the decree was made.

Of Arrest in Execution of Decrees for Money.

On what grounds application for discharge may be made.

273. Any person arrested under a warrant in execution of a decree for money may, on being brought before the Court, apply for his discharge on the ground that he has no present means of paying the debt, either wholly or in part, or, if possessed of any property, that he is willing to place whatever property he possesses at the disposal of the Court. The application shall contain a full account of all property of whatever nature belonging to the applicant, whether in expectancy or in possession, and whether held exclusively by himself or jointly with others, or by others in trust for him (except the necessary

Form of application.

[a] See Act No. IX of 1871, schedule II, No. 160.

wearing apparel of himself and his family and the necessary implements of his trade), and of the places respectively where such property is to be found, or shall state that, with the exceptions above-mentioned, the applicant is not possessed of any property, and the application shall be subscribed and verified by the applicant in the manner hereinbefore prescribed for subscribing and verifying plaints.

Verification.

274. [*Repealed by Act No. XXIII of* 1861, *section* 1, *and replaced by section* 8 *of that Act.*]

Re-arrest of defendant guilty of fraudulent concealment of property, &c.

275. The discharge of the defendant under the last preceding section shall not protect him from being arrested again and imprisoned if it should be shown that, in the application made by him, he had been guilty of any concealment or of wilfully making any false statement respecting the property belonging to him, whether in possession or in expectancy or held for him in trust, or had fraudulently concealed, transferred, or removed any property, or had committed any other act of bad faith; nor shall such discharge exempt from attachment and sale any property then in the possession of the defendant, or of which he may afterwards become possessed.

Of the Execution of Decrees by Imprisonment.

Subsistence-money of a defendant in gaol.

276. When a defendant is committed to prison in execution of a decree, the Court shall fix whatever monthly allowance it shall think sufficient for his subsistence, not exceeding four annas per day, which shall be supplied by the party at whose instance the decree may have been executed, to the proper officer of the Court or of the gaol where the defendant may be in custody, by monthly payments in advance, before the first day of each month; the first payment to be made for such portion of the current month as may remain unexpired before the defendant is committed to prison.

Power to vary the allowance in case of illness or for other special cause.

277. The Court may, in case of illness or for other special cause, fix the monthly allowance at such sum not exceeding six annas per day as shall appear necessary. The order fixing such allowance may from time to time be revised and altered on due cause being shown.

Release of defendant.

278. A defendant shall be released at any time on the decree being fully satisfied, or at the request of the person at whose instance he may have been imprisoned, or on such person omitting to pay the allowance as above directed.

Limit to imprisonment.

No person shall be imprisoned on account of a decree for a longer period than two years, or for a longer period than six months if the decree be for the payment of money not exceeding five hundred rupees, or for a longer period than three months if the decree be for the payment of money not exceeding fifty rupees.

279. Sums disbursed by a plaintiff for the subsistence of a defendant in gaol shall be added to the costs of the decree, and shall be recoverable by the attachment and sale of the property of the defendant under the foregoing rules; but the defendant shall not be detained in custody or arrested on account of any sums so disbursed.

Subsistence-money to be added to amount of decree.

280. Any person in confinement under a decree may apply to the Court for his discharge. The application shall contain a full account of all property of whatever nature belonging to the applicant, whether in expectancy or in possession, and whether held exclusively by himself or jointly with others, or by others in trust for him (except the necessary wearing apparel of himself and his family and the necessary implements of his trade), and of the places respectively where such property is to be found; and such application shall be subscribed and verified by the applicant in the manner hereinbefore provided for subscribing and verifying plaints.

Application by person imprisoned under decree for discharge on surrender of his property.

Verification.

281. On such application being made, the Court shall cause the plaintiff to be furnished with a copy of the account of the defendant's property, and shall fix a reasonable period within which the plaintiff may cause the whole or any part of such property to be attached and sold, or may make proof that the defendant, for the purpose of procuring his discharge without satisfying the decree, has wilfully concealed property, or his right or interest therein, or fraudulently transferred or removed property, or committed any other act of bad faith. If within such period the plaintiff shall fail to make such proof, the Court shall cause the defendant to be set at liberty. If the plaintiff shall within the time specified or at any subsequent period prove to the satisfaction of the Court that the defendant has been guilty of any of the acts above-mentioned, the Court shall, at the instance of the plaintiff, either retain the defendant in confinement, or commit him to prison, as the case may be, unless he shall have already been in confinement two years on account of the decree; and may also, if it shall think proper, send the defendant to the Magistrate to be dealt with according to law.

Procedure on such application.

When defendant to be discharged.

Consequence of proof of fraud or concealment.

282. A defendant once discharged shall not again be imprisoned on account of the same decree, except under the operation of the last preceding section, but his property shall continue liable, under the ordinary rules, to attachment and sale until the decree shall be fully satisfied, unless the decree shall be for a sum less than one hundred rupees and on account of a transaction bearing date subsequently to the passing of this Act. When the decree shall be for a sum less than one hundred rupees, and on account of a transaction bearing date as above, the Court may declare a defendant who shall be discharged as aforesaid absolved from further liability under that decree.

Though defendant discharged, his property liable for decree.

When Court may declare defendant absolved from further liability.

283. [*Repealed by Act No XXIII of* 1861, *section* 1 *and replaced by section* 11 *of the same Act.*]

Of Execution of a Decree out of the Jurisdiction of the Court by which it was passed.

How a decree of one Court may be executed within the jurisdiction of another Court.

284. A decree of any civil Court within any part of the British territories in India, or established by the authority of the Governor General of India in Council in the territories of any Foreign Prince or State, which cannot be executed within the jurisdiction of the Court whose duty it is to execute the same, may be executed within the jurisdiction of any other such Court in the manner following.

Application for such execution.

285. The plaintiff in such case may apply to the Court whose duty it is to execute the decree, to transmit a copy thereof, together with a certificate that satisfaction of such decree has not been obtained by execution within the jurisdiction of the said Court, and a copy of any order for execution of such decree that may have been passed, to the Court by which the applicant may wish the decree to be executed.

Copy of decree and order for execution to be transmitted.

286. The Court, unless there be any sufficient reason to the contrary, shall cause such copies and certificate to be prepared : and the same, after being signed by the Judge and sealed with the seal of the Court, shall be transmitted to the Court indicated by the applicant if that Court be within the same district, otherwise to the principal civil Court of original jurisdiction in the district in which the applicant may wish the decree to be executed ; and the Court to which such copies and certificate are transmitted shall cause the same to be filed therein, without any proof of the judgment or order for execution, or of the copies thereof, or of the seal or jurisdiction of any Court, or of the signature of any Judge, unless it shall, under any peculiar circumstances to be specified in an order, require such proof.

Decree or order transmitted, to be executed as that of the Court.

287. The copy of any decree, or of any order for execution, when filed in the Court to which it shall have been transmitted for the purpose of being executed as aforesaid, shall for such purpose have the same effect as a decree or order for execution made by such Court, and may, if the Court be the principal civil Court of original jurisdiction in the district, be executed by such Court, or any Court subordinate thereto, to which it may entrust the execution of the same.

Execution how to be enforced by Court applied to.

288. When application shall be made to any Court to execute the decree of any other Court as aforesaid, the Court to which the application shall be made or referred shall proceed to execute the same according to its own rules in the like cases ; provided that such Court shall have no power to enquire into

the validity of the decree unless it appear upon the face of the decree that the Court by which it was made had no jurisdiction to make the same.

289. The Court to which such application is made or referred for execution as aforesaid, shall take cognizance of and punish all wrongful acts or irregularities done or committed in executing such decree; and all persons disobeying or obstructing the execution of such decree shall be punishable by such Court in the same manner as if the decree had been made by such Court.

Wrongful acts or irregularities in executing decree to be punished by Court applied to.

290. The Court to which such application is made may, upon good and sufficient cause being shown, stay the execution of the decree for a reasonable time, to enable the defendant to apply to the Court by which the decree was passed, or to any Court having appellate jurisdiction in respect of the decree or the execution thereof, for an order to stay the execution, or for any other order relating to the decree or the execution thereof, which such Court of first instance or Court of appeal might have made if execution had been issued by such Court of first instance, or if application for execution had been made to such Court; and in case the property or person of the defendant shall have been seized under an execution, the Court which issued the execution may order the restitution of the property or the discharge of the person of the defendant pending the result of such application.

Court applied to may in certain cases stay execution, &c.

291. Before making an order to stay execution or for the restitution of property or the discharge of the defendant under the last preceding section, the Court may require such security from, or impose such conditions upon, the defendant as it may deem reasonable.

Power to require security or impose conditions.

292. Any order of the Court in which the decree was passed or of such Court of appeal as aforesaid, shall be binding upon the Court to which the application for execution was made, and shall be a sufficient indemnity for all persons acting in execution of process issued by such last mentioned Court.

Orders binding upon Court applied to.

293. No discharge of a defendant under the provisions of section 290 shall prevent him from being re-taken in execution of the decree.

Retaking of defendant discharged.

294. All orders of a Court for executing the decree of another Court shall be subject to the same rules, in respect to appeal, as if the decree had been originally passed by the Court making such order.

Appeal from orders for execution.

295. If, in execution of a decree, a warrant of arrest or other process is to be enforced within the limits of a garrison, cantonment, military station or military bázár, the officer entrusted with the execution of such warrant or other process shall carry the same to the commanding officer, or, in his absence, to the senior officer actually present in the garrison, cantonment, station or military bázár; and the commanding officer or such senior officer, upon such warrant or other process being produced to him, shall

Process in execution of decrees, how enforced in garrisons, cantonments, &c.

back the same with his signature, and, in the case of a warrant of arrest, shall cause the person named in the warrant to be arrested, if within the limits of his command, and delivered, according to the exigency of the warrant, to the civil officer charged with the execution thereof.

Application of rules in chapter IV.

296. The rules contained in this chapter shall be applicable to the execution of any judicial process for the sale of property or for the payment of money which may be ordered by a civil Court in any civil proceeding.

CHAPTER V.

Of Pauper Suits.

Suits may be brought *in formâ pauperis.*

297. A suit may be brought *in formâ pauperis* in the Court having jurisdiction over the claim, subject to the following rules.

What suit excepted.

298. No pauper suit shall be brought for the recovery of any sum of money on account of damages for loss of caste, slander, abusive language, or assault.

Application to be by petition.

299. The application to the Court for permission to sue *in formâ pauperis* shall be by petition, which shall be written. [a]

Petition what to contain.

300. The petition shall contain the particulars required by section 26 of this Act, in regard to plaints, and shall have annexed to it a schedule of any moveable or immoveable property belonging to the petitioner, with the estimated value thereof, and shall be subscribed and verified in the manner hereinbefore prescribed for the subscription and verification of plaints.

How to be presented.

301. The petition shall be presented to the Court by the petitioner in person; but if the petitioner satisfy the Court that he is prevented by sickness from attending the Court in person, or if the petitioner be a female, who, according to the custom and manners of the country, ought not to be compelled to appear in public, the petition may be presented by a duly authorized agent who may be able to answer all material questions relating to the application, and who shall be liable to be examined in the same manner as the party represented by him might have been examined had such party attended in person.

Examination of petitioner, if a female, how to be taken.

Petition to be rejected if not in form.

302. If the petition be not framed or presented in the manner laid down in the last two preceding sections, the Court shall reject the petition.

If in form, Court how to proceed.

303. If the petition be in form and duly presented, the Court shall proceed to examine the petitioner, or the agent of the petitioner, as the case may be, regarding the merits of the claim and the property of the petitioner.

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[a] As to the court-fee on such application, see Act No. VII of 1870, schedule II, No. 3.

When the petition is presented by an agent, the Court may also, if it think proper, order that the petitioner be examined in the manner hereinbefore prescribed for the examination of absent witnesses.

Examination of petitioner employing agent.

304. If it appear to the Court upon such examination that the defendant, or the matter of the suit, is not within the jurisdiction of the Court, or that the claim is barred by the Statute of Limitations, or that the allegations of the petitioner do not constitute a reasonable ground of action, or (if none of the objections above stated exist) that the petitioner has failed to show that he is not possessed of sufficient means to enable him to pay for the stamps required for the institution and prosecution of the suit, or that the petitioner has recently disposed of any property fraudulently or with a view to obtain the benefit of this chapter, the Court shall refuse to allow the petitioner to sue as a pauper.

When Court may reject application.

305. If upon such examination the Court shall see no reason to refuse the application on any of the grounds stated in the last preceding section, it shall fix a day (of which at least ten days' previous notice shall be given to the opposite party) for receiving such evidence as the petitioner may adduce in proof of his pauperism, and for hearing any evidence which the opposite party may bring forward in disproof of the pauperism of the petitioner.

Procedure on application not open to rejection.

306. On the day appointed for the hearing, or as soon after as the business of the Court will permit, the Court shall consider any objections made by the opposite party, and shall examine any witnesses produced by either party and make a memorandum of the substance of their evidence, and shall either allow or refuse to allow the petitioner to sue as a pauper.

After summary enquiry, Court to pass final order.

307. Previously to passing a final order in the case, the Court may, if it deem fit, institute a local enquiry, in the manner laid down in section 180 of this Act, regarding the property of the petitioner or regarding the amount or value of any property claimed.

Court may direct local enquiry.

308. If the application of the petitioner be granted, it shall be numbered and registered and shall be deemed the plaint in the suit, and the suit shall proceed in all other respects as an ordinary suit, except that the plaintiff shall not be liable to any further [a] fees chargeable under the Court Fees Act, 1870, in respect of any petition, appointment of a pleader, or other proceeding connected with the suit or with the execution of any decree passed in it.

Course of proceeding to be observed, if application be admitted.

309. On the decision of the suit, the Court shall calculate the amount of [b]fees chargeable under the Court Fees Act, 1870, which would have been paid by the plaintiff if he had not been permitted to sue as a pauper, and such

On decision of suit, costs how calculated.

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a. See Act No. VII of 1870, section 32.

amount shall be recoverable by Government from any party ordered by the decree to pay the same, in the same manner as costs of suit are recoverable.

Refusal to allow to sue as pauper, to bar subsequent application of like nature.

310. The refusal to allow the petitioner to sue as a pauper shall be a bar to any subsequent application of the like nature in respect of the same cause of action; but the plaintiff shall be at liberty to institute a suit in the usual manner in respect of such cause of action, unless precluded by the rules for the limitation of suits.

No appeal from orders under this chapter.

311. The orders passed by the Court under the provisions of this chapter shall not be subject to appeal.

CHAPTER VI.

Reference to Arbitration.

Parties may apply for reference to arbitration.

312. If the parties to a suit are desirous that the matters in difference between them in the suit, or any of such matters, shall be referred to the final decision of one or more arbitrator or arbitrators, they may apply to the Court at any time before final judgment for an order of reference.

Application how to be made.

313. The application shall be made by the parties in person or by their pleaders specially authorized in that behalf by an instrument in writing, which shall be presented to the Court at the time of making the application, and shall be filed with the proceedings in the suit.

Nomination and appointment of arbitrators.

314. The arbitrator or arbitrators shall be nominated by the parties in such manner as may be agreed upon between them. If the parties cannot agree with respect to the nomination of the arbitrator or arbitrators, or if the person or persons nominated by them shall refuse to accept the arbitration, and the parties are desirous that the nomination shall be made by the Court, the Court shall appoint the arbitrator or arbitrators.

Order of reference.

315. The Court shall, by an order under its seal, refer to the arbitrator or arbitrators the matters in difference in the suit which he or they may be required to determine, and shall fix such time as it may think reasonable for the delivery of the award, and the time so fixed shall be specified in the order.

When the reference is to two or more, the order shall provide for difference of opinion.

316. If the reference be to two or more arbitrators, provision shall be made in the order for a difference of opinion among the arbitrators, by the appointment of an umpire, or by declaring that the decision shall be with the majority, or by empowering the arbitrators to appoint an umpire, or otherwise as may be agreed upon between the parties; or if they cannot agree, as the Court may determine.

317. When a reference is made to arbitration by an order of Court, the Court shall issue the same processes to the parties and witnesses whom the arbitrator or arbitrators or umpire may desire to have examined, as the Court is authorized to issue in suits tried before it; and persons not attending in consequence of such process, or making any other default, or refusing to give their testimony, or being guilty of any contempt to the arbitrator or arbitrators or umpire during the investigation of the suit, shall be subject to the like disadvantages, penalties, and punishments, by order of the Court on the representation of the arbitrator or arbitrators or umpire, as they would incur for the same offences in suits tried before the Court.

Summoning witnesses.

Punishment of contempts, &c.

318. When the arbitrator or abitrators shall not have been able to complete the award within the period specified in the order from the want of the necessary evidence or information or other good and sufficient cause, the Court may from time to time enlarge the period for the delivery of the award, if it shall think proper. In any case in which an umpire shall have been appointed, it shall be lawful for him to enter on the reference in lieu of the arbitrators, if they shall have allowed their time or their extended time to expire without making an award, or shall have delivered to the Court or to the umpire a notice in writing stating that they cannot agree. Provided that an award shall not be liable to be set aside only by reason of its not having been completed within the period allowed by the Court, unless on proof that the delay in completing the award arose from corruption or misconduct of the arbitrator or abitrators or umpire, or unless the award shall have been made after the issue of an order by the Court superseding the arbitration and recalling the suit.

Extension of time for making award.

319. If, in any case of reference to arbitration by an order of Court, the arbitrator or arbitrators or umpire shall die, or refuse or become incapable to act, it shall be lawful for the Court to appoint a new arbitrator or arbitrators or umpire, in the place of the person or persons so dying, or refusing or becoming incapable to act. Where the arbitrators are empowered by the terms of the order of reference to appoint an umpire and do not appoint an umpire, any of the parties may serve the arbitrators with a written notice to appoint an umpire; and if within seven days after such notice shall have been served, no umpire be appointed, it shall be lawful for the Court, upon the application of the party having served such notice as aforesaid, and upon proof to its satisfaction of such notice having been served, to appoint an umpire. In any case of appointment under this section, the arbitrator or arbitrators or umpire so appointed shall have the like power to act in the

In case of death, incapacity, or refusal to act of arbitrators or umpire. Court may appoint others instead.

reference, as if their name or names had been inserted in the original order of reference.

Award how to be submitted to Court.

320. When an award in a suit shall be made either by the arbitrator or arbitrators or by the umpire, it shall be submitted to the Court under the signature of the person or persons by whom it may be made together with all the proceedings, depositions, and exhibits in the suit.

Arbitrator may state special case.

321. It shall be lawful for the arbitrator or arbitrators or umpire, upon any reference, by an order of Court, if he or they shall think fit, and if it is not provided to the contrary, to state his or their award as to the whole or any part thereof in the form of a special case for the opinion of the Court.

Court may, on application, modify or correct an award in certain cases.

322. The Court may on the application of either party modify or correct an award where it appears that a part of the award is upon matters not referred to the arbitrators, provided such part can be separated from the other part and does not affect the decision on the matter referred; or where the award is imperfect in form or contains any obvious error which can be amended without affecting such decision. The Court may also on such application make such order as it thinks just respecting the costs of the arbitration, if any question arise respecting such costs and the award contain no sufficient provision concerning them.

And make order respecting the costs of arbitration.

In what cases Court may remit the award or any of the matters referred to arbitration for re-consideration.

323. In any of the following cases the Court shall have power to remit the award or any of the matters referred to arbitration to the re-consideration of the same arbitrator or arbitrators or umpire, upon such terms as it may think proper (that is to say)—

If the award has left undetermined some of the matters referred to arbitration, or if it determine matters not referred to arbitration.

If the award is so indefinite as to be incapable of execution.

If an objection to the legality of the award is apparent upon the face of the award.

Setting aside award.

324. No award shall be liable to be set aside except on the ground of corruption or misconduct of the arbitrators or umpire.[a]

Judgment to be according to the award.

325. If the Court shall not see cause to remit the award or any of the matters referred to arbitration for re-consideration in manner aforesaid, and if no application shall have been made to set aside the award, or if the Court shall have refused such application, the Court shall proceed to pass judgment according to the award or according to its own opinion on the special case if the award shall have been submitted to it in the form of a special case; and

[a] See Act No. IX of 1871, schedule, II, No. 155.

upon the judgment which shall be so given decree shall follow and shall be carried into execution in the same manner as other decrees of the Court. In every case in which judgment shall be given according to the award, the judgment shall be final.

Application for filing of agreement of parties to refer to arbitration.

Procedure thereon.

326. When any persons shall by an instrument in writing agree that any differences between them or any of them shall be referred to the arbitration of any person or persons named in the agreement or to be appointed by any Court having jurisdiction in the matter to which it relates, application may be made by the parties thereto or any of them that the agreement be filed in such Court. On such application being made, the Court shall direct such notice to be given to any of the parties to the agreement, other than the applicants, as it may think necessary, requiring such parties to show cause, within a time to be specified, why the agreement should not be filed. The application shall be written[a] and shall be numbered and registered as a suit between some or one of the parties interested or claiming to be interested as plaintiffs or plaintiff, and the others or other of them as defendants or defendant, if the application have been presented by all the parties, or, if otherwise, between the applicant as plaintiff and the other parties as defendants. If no sufficient cause be shown against the agreement, the agreement shall be filed and an order of reference to arbitration shall be made thereon. The several provisions of this chapter so far as they are not inconsistent with the terms of any agreement so filed, shall be applicable to all proceedings under an order of reference made by the Court and to the award of arbitration and to the enforcement of such award.

Provisions of this chapter applicable.

Filing in Court an award when the matter was referred to arbitration without intervention of Court.

Enforcement of such award.

327. When any matter has been referred to arbitration without the intervention of any Court of Justice, and an award has been made, any person interested in the award may[b] make application to the Court having jurisdiction in the matter to which the award relates, that the award be filed in Court. The Court shall direct notice to be given to the parties to the arbitration other than the applicant, requiring such parties to show cause, within a time to be specified, why the award should not be filed. The application shall[c] be numbered and registered as a suit between the applicant as plaintiff and the other parties as defendants. If no sufficient cause be shown against the award, the award shall be filed and may be enforced as an award made under the provisions of this chapter.

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[a] See Act No. VII of 1870, schedule II, No. 18

[b] See Act No. IX of 1871, schedule II, No 165

[c] See Act No. VII of 1870, schedule II, No. 1.

CHAPTER VII.

Of Proceedings on Agreement of Parties.

How Questions may be raised for the Decision of a Civil Court by any Persons interested.

Questions of fact, or of law or equity, may be raised by agreement for decision of Court having jurisdiction.

328. Parties interested or claiming to be interested in the decision of any question of fact or law, may enter into an agreement[a] that, upon the finding of a Court in the affirmative or negative of such question of fact or law, a sum of money fixed by the parties, or to be determined by the Court, shall be paid by one of the parties to the other of them; or that some property, moveable or immoveable, specified in the agreement, shall be delivered by one of the parties to the other of them; or that one or more of the parties shall do or perform some particular legal act or shall refrain from doing or performing some particular act specified in the agreement. Where the agreement is for the delivery of some property moveable or immoveable, or for the doing or performing or the refraining to do or perform any particular act, the estimated value of the property to be delivered, or to which the act specified may have reference, shall be stated in the agreement.

Agreement to be filed and numbered as a suit.

329. The agreement may be filed in any Court having jurisdiction in the matter, and, when so filed, shall be numbered and registered as a suit between some or one of the parties interested or claiming to be interested as plaintiffs or plaintiff, and the others or other of them as defendants or defendant; and notice shall be given to all the parties to the agreement other than the party or parties by whom it was presented.

Parties to be subject to the Court's jurisdiction.

330. After the agreement shall have been filed, all the parties to it shall be subjected to the jurisdiction of the Court, and shall be bound by the statements contained therein.

Hearing and disposal of the case.

330. The case shall be set down for hearing as an ordinary suit; and if the Court shall be satisfied, after an examination of the parties or their pleaders, or taking such evidence as it may deem proper, that the agreement was duly executed by the parties, and that they have a *bonâ fide* interest in the question of fact or law stated therein, and that the same is fit to be tried or decided, it shall proceed to record and try or hear the same, and deliver its finding or opinion thereon in the same way as in an ordinary suit; and shall, upon its finding or deciding upon the question of fact or law, give judgment for the sum fixed by the parties, or so ascertained as aforesaid, or otherwise, according to the terms of the agreement, and upon the judgment which shall be so given,

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[a] See Act No. VII of 1870, schedule II, No. 19.

decree shall follow and may be executed in the same way as if the judgment had been pronounced in a contested suit.

CHAPTER VIII.

Of Appeals.

332. [*Repealed by Act No. XXIII of* 1861, *section* 1.]

How Appeals are to be preferred.

333. Appeals shall be made in the form of a memorandum which shall be presented in the appellate Court.[a] Memorandum of appeal.

334. The memorandum of appeal shall set forth concisely, and under distinct heads, the grounds of objection to the decision appealed against, without any argument or narrative, and such grounds shall be numbered consecutively. The appellant shall not without the leave of the Court urge or be heard in support of any other ground of objection, but the Court in deciding the appeal shall not be confined to the grounds set forth by the appellant. Contents of memorandum.

335. The memorandum of appeal shall be in the following form, or to the following effect, and shall be accompanied by a copy of the decree appealed against— Form of memorandum.

Memorandum of Appeal.

(*Name, &c., as in register.*) Plaintiff.
(*Name, &c., as in register.*) Defendant.

[*Name of Appellant*] Plaintiff [*or* Defendant] above-named appeals to the Sadr Court at [*or* zila Court at *as the case may be*], against the decree of in the above suit, dated the day of , for the following reasons, namely, [*here state the reasons*].

336. If the memorandum be not drawn up in the manner hereinbefore prescribed, the Court may reject it or may return it to the party for the purpose of being corrected. If the memorandum be not presented within the prescribed period and no sufficient cause be shown for the delay, the appeal shall be rejected. Effect of want of form or delay in presentation.

337. If there be two or more plaintiffs or two or more defendants in a suit, and the decision of the lower Court proceed on any ground common to all, any one of the plaintiffs or defendants may appeal against the whole decree, and the appellate Court may reverse or modify the decree in favour of all the plaintiffs or defendants. Appeal by one of several plaintiffs or defendants on ground common to all.

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[a] See Act No. IX of 1871, schedule II, Nos. 151—154.

Of staying and executing Decrees under Appeal.

Execution not stayed solely by appeal; but for cause shown.

338. Execution of a decree shall not be stayed by reason only of an appeal having been preferred against such decree; but the appellate Court may, for sufficient cause shown, order that execution be stayed. If application for execution be made before the time allowed for appeal has expired, and the lower Court has not received intimation of an appeal having been preferred, the lower Court, if sufficient cause be shown, may stay the execution. Before making an order to stay execution, the Court making the order shall require security to be given by the party against whom the decree was passed for the due performance of the decree or order of the appellate Court.

Security for performance of decree.

339. [*Repealed by Act No. XXIII of* 1861, *section* 1, *and replaced by section* 36 *of that Act.*]

No security required from Government or public officer.

340. In suits instituted or defended under the authority and at the expense of Government, no such security as is mentioned in the last two preceding sections shall in any case be required from Government or from any public officer.

Of Procedure in Appeals from Decrees.

Registration of appeal.

134. When a memorandum of appeal is presented in the prescribed form and within the time allowed, the appellate Court, or the proper officer of that Court, shall endorse thereon the date of presentment, and shall register the appeal in a book to be kept for the purpose, and called the register of appeals. Such register shall be in the form contained in the schedule (C) hereunto annexed.

Form of register.

Security for costs from appellant.

342. It shall be in the discretion of the appellate Court to demand security for costs from the appellant or not, as it shall see fit, before the respondent is called upon to appear and answer. Provided that the Court shall demand such security in all cases in which the appellant is residing out of the British territories in India and is not possessed of any land or other immoveable property within those territories independent of the property to which the appeal relates; and in the event of such security not being furnished at the time of presenting the memorandum of appeal or within such time as the Court shall order, the Court shall reject the appeal.

Effect of failure to give security.

Notice of appeal to lower Court.

343. When the memorandum of appeal has been registered, the appellate Court shall send intimation thereof to the lower Court.

Transmission of papers to appellate Court.

If the appeal be from a Court the records of which are not deposited in the appellate Court, the lower Court shall, upon the receipt of the intimation, transmit to the appellate Court with all practicable despatch all material papers in the suit, or such papers as may be specially called for by the appellate Court.

Either party may give notice in writing to the lower Court specifying any exhibits of which he requires copies to be made and deposited in the lower Court, and copies of such exhibits shall be prepared at the expense of the party giving the notice and shall be deposited in the lower Court.

Notice of exhibits and deposit of copies.

344. A day shall be fixed by the appellate Court for the hearing of the appeal. The day shall be so fixed, with reference to the place of residence of the respondent and the time necessary for the service of the notice of appeal, as to allow the respondent a sufficient time to enable him to appear in person or by a pleader on such day.

Fixing day for hearing appeal.

345. Notice of the day which has been fixed for hearing the appeal shall be affixed in the appellate Court, and a like notice shall be sent by the appellate Court to the lower Court and shall be served on the respondent in the same way as hereinbefore provided for the service of a summons to a defendant to appear and answer, and all rules applicable to such summons and to proceedings with reference to the service thereof shall apply to the service of such notice. The notice to the respondent shall contain an intimation that, if he does not appear in the appellate Court on the day so fixed for the hearing of the appeal, the case will be heard and decided *ex parte* in his absence. Provided that, if the respondent has appointed a pleader to appear in his behalf in the appellate Court, the service of the notice on such pleader shall be sufficient.

Publication and service of notice of day fixed for hearing appeal.

Form of notice.

Service on pleader.

346. If, on the day fixed for hearing the appeal or any other day subsequent thereto to which the hearing of the appeal may be adjourned, the appellant shall not appear in person or by a pleader, the appeal shall be dismissed for default.

Dismissal for default.

If the appellant shall appear in person or by a pleader, and the respondent shall not appear in person or by a pleader, the appeal shall be heard *ex parte* in his absence.

Hearing *ex parte*.

347. If an appeal be dismissed for default of prosecution, the appellant may[a] apply to the appellate Court for the re-admission of the appeal; and if it shall be proved to the satisfaction of the Court that the appellant was prevented by any sufficient cause from appearing when the appeal was called on for hearing, the Court may re-admit the appeal.

Re-admission of appeals dismissed for default of prosecution.

348. Upon the hearing of the appeal, the respondent may take any objection to the decision of the lower Court which he might have taken if he had preferred a separate appeal from such decision.

Objection by respondent to decision of lower Court.

349. The appellate Court, after hearing the appeal, shall proceed to give its judgment in the manner hereinbefore prescribed for giving judgment in Courts of original jurisdiction.

Appellate Court how to give judgment.

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[a] See Act No. IX of 1871, schedule II, No. 161.

No decision to be reversed for irregularity.

350. The judgment may be for confirming or reversing or modifying the decree of the lower Court. But no decree shall be reversed or modified, nor shall any case be remanded to the lower Court on account of any error, defect, or irregularity either in the decision or in any interlocutory order passed in the suit not affecting the merits of the case or the jurisdiction of the Court.

When case may be remanded by appellate Court.

351. If the lower Court shall have disposed of the case upon any preliminary point so as to exclude any evidence of fact which shall appear to the appellate Court essential to the rights of the parties, and the decree of the lower Court upon such preliminary point shall be reversed by the decree in appeal, the appellate Court may, if it think right, remand the case, together with a copy of the decree in appeal, to the lower Court, with directions to restore the suit to its original number in the register, and proceed to investigate the merits of the case, and pass a decree therein.

Power to remand limited as above.

352. It shall not be competent to the appellate Court to remand a case for a second decision by the lower Court, except as provided in the last preceding section.

When appellate Court to determine case, though lower Court has decided on other grounds.

353. When the evidence upon the record of the lower Court is sufficient to enable the appellate Court to pronounce a satisfactory judgment, the appellate Court shall finally determine the case, notwithstanding that the judgment of the lower Court has proceeded wholly upon some other ground.

When appellate Court may frame and refer issues to lower Court.

354. If the lower Court shall have omitted to raise or try any issue, or to determine any question of fact which shall appear to the appellate Court essential to the right determination of the suit upon the merits, and the evidence upon the record is not sufficient to enable the appellate Court to determine such issue or question of fact, the appellate Court may frame an issue or issues for trial by the lower Court and may refer the same to the lower Court for trial. Thereupon the lower Court shall proceed to try such issue or issues, and shall return to the appellate Court its finding thereon together with the evidence. Such finding and evidence shall become part of the record in the suit; and either party may, within a time to be fixed by the appellate Court, file a memorandum of any objection to the finding; and after the expiration of the period so fixed, the appellate Court shall proceed to determine the appeal.

Procedure thereon.

Production and admission of additional evidence.

355. It shall not be competent to the parties in an appeal to produce additional evidence in the appellate Court, whether of exhibits or witnesses; but if it appear that the lower Court refused to admit competent evidence, or if the appellate Court require any exhibits to be produced or witnesses examined to enable it to pronounce a satisfactory judgment, or for any other substantial cause, the appellate Court may allow additional exhibits to be

received and any necessary witnesses to be examined, whether such witnesses shall have been previously examined in the Court below or not; provided that, whenever additional evidence is admitted by an appellate Court, the reasons for the admission shall be recorded on the proceedings of such Court.

Record of reasons for admission.

356. Whenever additional evidence is permitted to be received, it shall be competent to the appellate Court to take such evidence before itself, or to require the lower or any other Court, or to empower any person, to take such evidence, and to transmit the evidence so taken to the appellate Court. It shall also be competent to the appellate Court to prescribe the manner in which such evidence shall be taken.

How additional evidence to be taken.

357. In all cases where additional evidence is permitted to be taken, the appellate Court shall define the point or points to which the evidence is to be confined, and record the same on its proceedings.

Points to be defined.

358. [*Repealed by Act No. XXIII of* 1861, *section* 1 *and replaced by section* 37 *of the same Act.*]

359. The judgment of the appellate Court shall be pronounced in open Court. It shall contain the point or points for determination, the decision thereupon, and the reasons for the decision, and shall be dated and signed by the Judge or by the Judges concurring therein at the time of pronouncing it. The judgment shall be written in the English language; but if the Judge shall not be able to write an intelligible judgment in that language, the judgment shall be written in the vernacular language of the Judge. When the language in which the judgment is written is not the language in ordinary use in proceedings before the Court, the judgment shall be translated into such language, and the translation shall be signed by the Judge or Judges. Any Judge dissenting from the judgment of the Court shall state his opinion in writing, which shall form part of the record.

Judgment of appellate Court.

Language of judgment.

Translation.

Dissent to be recorded.

360. The decree of the appellate Court shall bear date the day on which the judgment was passed. It shall contain the number of the suit, the names and description of the parties appellant and respondent and the memorandum of appeal, and shall specify clearly the relief granted or other determination of the appeal. It shall also state the amount of costs incurred in the appeal, and by what parties and in what proportions such costs and the costs in the original suit are to be paid. The decree shall be signed by the Judge or Judges who passed it and shall be sealed with the seal of the Court. If there be a difference of opinion among the Judges of the Court, it shall not be necessary for any Judge dissenting from the judgment of the Court to sign the decree, but the opinion of such Judge shall be recited in the decree. Certified copies of the decree shall be furnished to the parties in the same

What the decree is to contain.

manner as hereinbefore provided in regard to the decrees of Courts of original jurisdiction.

Transmission of copy of decree to lower Court.

361. A copy of the decree or other order disposing of the appeal, certified by the appellate Court or the proper officer of such Court, and sealed with the seal of the Court, shall be transmitted to the Court which passed the first decree in the suit appealed from, and shall be filed with the original proceedings in the suit, and an entry of the judgment of the appellate Court shall be made in the original register of the suit.

How to be executed.

362. Application for execution of the decree of an appellate Court shall be made to the Court which passed the first decree in the suit, and shall be executed by the Court, in the manner and according to the rules hereinbefore contained for the execution of original decrees.

Appeals from Orders.

No appeal from order passed before decree, but error, &c., may be set forth in appeal.

363. No appeal shall lie from any order passed in the course of a suit and relating thereto prior to decree; but if the decree be appealed against, any error, defect or irregularity in any such order affecting the merits of the case or the jurisdiction of the Court, may be set forth as a ground of objection in the memorandum of appeal.

Appeal from order passed after decree relating to its execution.

364. No appeal shall lie from any order passed after decree and relating to the execution thereof except as is hereinbefore expressly provided.

Appeal from orders as to fines or imprisonment.

365. All orders as to fines or the levying thereof, or as to imprisonment under this Act (except when the imprisonment is in execution of a decree), shall be subject to appeal.

Procedure in appeals from orders.

366. When an appeal from any order is allowed, the period for preferring the appeal and the procedure thereon shall be in all respects the same as in an appeal from a decree.

CHAPTER IX.

Of Appeals in Forma Pauperis.

Who may appeal as pauper.

367. Any party to a suit who may be unable to pay for the stamps required for the prosecution of an appeal from the decision passed therein, may be allowed to appeal as a pauper from such decision, subject to all the rules contained in the last preceding chapter and in chapter V in so far as they are applicable.

368. The application to be allowed to appeal *in formâ pauperis* shall be written[a], and shall be presented in the appellate Court within the period allowed for the presentation of a memorandum of appeal. Application when to be presented.

369. The application shall contain the particulars required to be set forth in the memorandum of appeal and shall be drawn up in the like manner. It shall have annexed to it a schedule of any moveable or immoveable property belonging to the applicant with the estimated value thereof, and shall also be accompanied by copies of the judgment and decree from which the appeal is made. Form of application.

370. If the appellate Court, upon a perusal of the application and of the judgment and decree of the Court below, shall see no reason to think that the decision of that Court is contrary to law or to some usage having the force of law, or is otherwise erroneous or unjust, it shall reject the application. If the application be not rejected upon any of the grounds above-mentioned, enquiry shall be made into the alleged pauperism of the applicant, and such enquiry may be conducted either by the appellate Court or by the Court from whose decision the appeal is made under the orders of the appellate Court. Provided that, if the applicant was allowed to sue *in formâ pauperis* in the Court below, no further enquiry in respect of his pauperism shall be necessary, unless the appellate Court shall see special cause to direct such enquiry. Procedure.

371. The order passed by the appellate Court on an application to be allowed to appeal *in formâ pauperis,* whether for the admission or rejection of the application, shall be final; but, if the application be rejected, the appellate Court may, if it think proper, allow the applicant a reasonable time for preferring an appeal on[b] the payment of the fee prescribed for appeals from decrees. Effect of order by appellate Court.

CHAPTER X.

Of Special Appeals.

372. Unless otherwise provided by any law for the time being in force, a special appeal shall lie to the Sadr Court from all decisions passed in regular appeal by the Courts subordinate to the Sadr Court, on the ground of the decision being contrary to some law or usage having the force of law, or of a substantial error or defect in law in the procedure or investigation of the case which may have produced error or defect in the decision of the case upon the merits, and on no other ground. Special appeals to Sadr Court. Grounds of special appeal.

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[a] See the Court Fees Act, No. VII of 1870, schedule II, No. 3.

[b] See Act No. VII 1870, section 32.

Application to be presented to Sadr Court.

373. The application for the admission of a special appeal shall be presented in the Sadr Court[a], and shall be accompanied by copies of the judgments and decrees of the lower appellate Court and of the Court of first instance. The application shall be written[b] and shall be chargeable with the fee prescribed for regular appeals; but if the applicant be unable to pay[c] the fees required for the prosecution of the appeal, the Sadr Court may admit him to appeal as a pauper, subject to all the rules contained in chapter IX in respect to appeals from decrees *in formâ pauperis* in so far as the same may be applicable.

Form of application.

374. The application shall set forth concisely the grounds of objection to the decision appealed against without argument or narrative, and such grounds shall be numbered consecutively. The applicant shall not, without the leave of the Court, be heard in support of any other ground of objection; but the determination of the Court may be upon any ground on which a special appeal would lie.

375. [*Repealed by Act No. XXIII of* 1861, *section* 1.]

CHAPTER XI.

Review of Judgment.

Review of judgment.

376. Any person considering himself aggrieved by a decree of a Court of original jurisdiction, from which no appeal shall have been preferred to a superior Court—or by a decree of a district Court in appeal from which no special appeal shall have been admitted by the Sadr Court—or by a decree of the Sadr Court from which either no appeal may have been preferred to Her Majesty in Council, or an appeal having been preferred no proceedings in the suit have been transmitted to Her Majesty in Council—and who from the discovery of new matter or evidence which was not within his knowledge, or could not be adduced by him at the time when such decree was passed, or from any other good and sufficient reason, may be desirous of obtaining a review of the judgment passed against him—may apply[d] for a review of judgment by the Court which passed the decree.

On discovery of new evidence, &c.

377. [*Repealed by Acts Nos. VII of* 1870 *and IX of* 1871.]

Order of Court for granting or refusing review, final.

378. If the Court shall be of opinion that there are not any sufficient grounds for a review, it shall reject the application, but if it shall be of opinion that the review desired is necessary to correct an evident error or omission, or

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[a] See Act No IX of 1871, schedule II, No. 163.
[b] c. See Act No. VII of 1870, section 32
[d] See Act No. IX of 1871, sched. II, No. 164 and Act No. VII of 1870, sched I, Nos. 4 and 5.

is otherwise requisite for the ends of justice, the Court shall grant the review, and its order in either case, whether for rejecting the application or granting the review, shall be final. Provided that no review of judgment shall be granted without previous notice to the opposite party to enable him to appear and be heard in support of the decree of which a review is solicited.

Proviso.

379. If the Court to which the application for a review of its judgment has been presented be a Court consisting of two or more Judges, whenever the Judge or Judges who may have passed the decree, or if the decree have been passed by two or more Judges, when any of such Judges, shall continue attached to the Court at the time when the application for a review is presented, and shall not be precluded by absence or other cause, for a period of six months after the application, from considering the judgment to which the application refers, it shall not be competent to any other Judge or Judges of the same Court to enter upon a consideration of the merits of the application and record an order or opinion thereon.

Judges to deal with application for review.

380. When an application for a review of judgment is granted, a note thereof shall be made in the register of suits or appeals (as the case may be), and the Court shall give such order in regard to the re-hearing of the suit as it may deem proper in the circumstances of the case.

Procedure on grant of application for review.

CHAPTER XII.

MISCELLANEOUS.

381. [*Repealed by Act No. XXIII of* 1861, *section* 1. *Replaced by section* 40 *of that Act.*]

382. Except so far as relates to the examination of witnesses under commission and to the execution of decrees out of the jurisdiction of the Courts by which they were passed, this Act shall not extend to any suit instituted in any Court for the more easy recovery of small debts and demands in Calcutta, Madras and Bombay.

Application of Act to Presidency Small Cause Courts.

383. Nothing in this Act shall be held to alter or affect the jurisdiction or procedure in civil cases of village munsifs or village or district panchâyats under the provisions of the Madras Code; or the jurisdiction or procedure of military Courts of Request; or the jurisdiction or procedure of a single officer duly authorized and appointed under the rules in force in the presidencies of Fort St. George and Bombay respectively, for the trial of small suits in military bázárs at cantonments and stations occupied by the troops of those presidencies respectively; or by panchâyats in regard to suits against military persons, according to the rules in force under the presidency of Fort St. George.

Saving of jurisdiction and procedure of certain tribunals in Madras and Bombay.

Saving of certain special or local laws.

384. Nothing in this Act shall be held to affect the jurisdiction exercised by certain Jágírdárs and other authorities invested with powers under the provisions of Regulation XIII. 1830 of the Bombay Code *(for vesting certain Jágírdárs, Sarinjámidárs, and Inámdárs with the power of deciding suits within the boundaries of their respective estates)* and Act XV of 1840 *(for extending Regulations XV.* 1827 *and XIII.* 1830 *of the Bombay Code to the Agents of Foreign Sovereigns),* or their procedure in the exercise of such jurisdiction; or to affect suits instituted under Regulation XI. 1816 of the Bengal Code *(for receiving, trying, and deciding claims to the right of inheritance or succession in certain Tributary estates in Zila Cuttack),* or cases of the nature defined in Regulation XXIX. 1827 *(for bringing under the operation of the Regulations the Bombay Territories in the Dekkhan and Khándesh),* Regulation VII. 1830 *(for bringing under the operation of the Regulations the Territories comprised in the Southern Mahratta Country),* Regulations I. and XVI. 1831 of the Bombay Code *(for extending the jurisdiction of the Agent of Government in the Dekkhan and Khándesh and of the Political Agent in the Southern Mahratta Country over suits in which certain privileged persons are concerned),* Act XIX of 1835 *(relating to the jurisdiction and authority of the Assistant to the Agent for Sardárs in the Dekkhan),* and Act XIII of 1842 *(to enable the holders of revenue which has been alienated to them by the State to collect that revenue within the Presidency of Bombay),* except that such suits and cases and the regular and special appeals to the civil Courts allowed therein, shall be received, heard, and determined under the rules laid down in this Act, unless where those rules are inconsistent with any specific provisions contained in the Regulations and Acts above quoted.

To what extent this Act applies to them.

Act when to take effect in places not subject to general Regulations.

385. This Act shall not take effect in any part of the territories not subject to the general Regulations of Bengal, Madras and Bombay, until the same shall be extended thereto by the Governor General of India in Council or by the Local Government to which such territory is subordinate and notified in the Gazette.[a]

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[a] Extended to the non-regulation districts of Hazáribágh, Lohárdaga and Mánbhúm, *Calcutta Gazette,* 1859, p. 1535: to Cachar, *ib.* p. 1996: to the State of Dhalbhúm in the Singhbhúm District, *ib.* p. 2311: to the Tributary Maháls of Angul and Bánki, *ib.* 1861, p. 2586: to Darjeeling, *ib.* 1863, p. 484.

Extended to the province of Arakan, *Calcutta Gazette,* 1859, p. 1929: to the Tenasserim and Martaban Provinces, *ib.* 1860, p. 320.

Extended to the province of Assam, *Calcutta Gazette,* 1860, p. 967.

Extended to Ajmer and Mairwára, *Calcutta Gazette,* 1861, p. 502.

Extended to Oudh subject to certain modifications [Acts IV of 1860, s. 3, XXIII of 1861, s. 39] *Calcutta Gazette,* 1861, pp. 2387, 2425, 2685, 3293 and 1862, p. 1. See the notification Act XIX of 1868, Schedule D.

Extended to the Central Provinces as modified in Oudh, *Calcutta Gazette,* 1862, p. 3501 to the District of Nimar *Gazette of India,* 1864, p. 740: to the District of Bijeragogarh, *ib.* 1866, p 907.

386. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that is to say)— **Interpretation.**

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number. **Number.**

Words importing the masculine gender shall include females. **Gender.**

The local jurisdiction of a principal civil Court of original jurisdiction shall be deemed a District for the purposes of this Act; and the words "District Court" shall mean such Court. **"District." "District Court."**

In any part of the British territories in India to which this Act may be extended under the provisions of section 385, the expression "Sadr Court" shall be deemed to include the highest civil Court of appeal in such part of the said territories. **"Sadr Court."**

387. [*Repealed by Act No. XIV of* 1870.]

388. From and after the time when this Act shall come into operation in any part of the British territories in India, the procedure of the civil Courts in such part of the said territories shall be regulated by this Act, and, except as otherwise provided by this Act, by no other law or Regulation. **Where Act operates, procedure of civil Courts to be regulated thereby.**

SCHEDULE A.

COURT of the of holden at

REGISTER OF CIVIL SUITS IN THE YEAR 18

Date of presentation of plaint.	No. of suit.	Plaintiff.			Defendant			Claim			Appearance			Judgment.			Appeal.		Execution.					Return of Execution.		
		Name.	Description.	Place of abode	Name.	Description.	Place of abode.	Particulars.	Amount or value.	When the cause of action accrued.	Day for parties to appear.	Plaintiff.	Defendant.	Date	For whom.	For what, or amount.	Date of appeal.	Judgment in appeal.	Date of application.	Date of order.	Against whom.	For what, and amount if money.	Amount of costs.	Amount paid into Court	Arrested.	Minute of other Return than payment or arrest, and date of every Return

SCHEDULE B.

No. of suit.

In the Court of at

Plaintiff,

Defendant.

(*Name, description and address.*)

Whereas [*here enter the name, description, and address of the plaintiff*] has instituted a suit in this Court against you [*here state the particulars of the claim as in the register*] : you are hereby summoned to appear in this Court in person on the day of at in the forenoon [*if not specially required to appear in person, state*—" in person or by a pleader of the Court duly instructed and able to answer all material questions relating to the suit, or who shall be accompanied by some other person able to answer all such questions"] to answer the above-named plaintiff. [*If the summons be for the final disposal of the suit, this further direction shall be added here ;* " and as the day fixed for your appearance is appointed for the final disposal of the suit, you must be prepared to produce all your witnesses on that day"] : and you are hereby required to take notice that, in default of your appearance on the day before mentioned, the suit will be heard and determined in your absence ; and you will bring with you (or send by your agent) [*here mention any document the production of which may be required by the plaintiff*] which the plaintiff desires to inspect, and any document on which you intend to rely in support of your defence.

SCHEDULE C.

COURT at

REGISTER OF APPEALS FROM DECREES IN THE YEAR 18

Date of Memorandum.	No. of Appeal.	Appellant.			Respondent.			Decree appealed from.				Appearance.			Judgment		
		Name.	Description.	Place of abode.	Name.	Description.	Place of abode.	Of what Court.	No. of Original Suit.	Particulars.	Amount or value.	Day for parties to appear.	Appellant.	Respondent.	Date.	Confirmed, reversed or altered.	For what, or amount.

SCHEDULE D.

SADR COURT at

REGISTER OF SPECIAL APPEALS.

Date of Memorandum.	No. of Appeal.	Appellant.			Respondent.			Decree appealed from.				Appearance.			Judgment.		
		Name.	Description.	Place of abode	Name.	Description.	Place of abode.	Of what Court.	No. of Original Suit and of Appeal.	Particulars.	Amount or value	Day for parties to appear.	Appellant.	Respondent.	Date.	Confirmed, reversed or altered.	For what, or amount

ACT No. IX OF 1859.

Received the Governor General's assent on the 30th April 1859.

An Act to provide for the adjudication of claims to property seized as forfeited.[a]

WHEREAS it is expedient to make provision for the adjudication of claims to property seized as forfeited, with a view to the speedy determination of the same; and whereas it is also expedient to remove doubts concerning the powers of officers or other persons to whom commissions may have been issued for the trial of heinous offences in certain districts, and concerning the validity of convictions and adjudications of forfeiture made by such officers or other persons: It is enacted as follows:— Preamble.

1 to 15. [*Repealed by Act No. VIII of* 1868.]

16. Whenever any person shall have been convicted of an offence for which his property was forfeited to Government, no Court has power in any suit or proceeding relating to such property, to question the validity of the conviction. Convictions involving forfeiture not questionable in suit relating to forfeited property.

17. Whenever any person shall have been convicted as above by an officer having power to try and convict, the validity of any such conviction shall not be questioned upon the ground that the record of the conviction does not show in what capacity such officer acted, or that it represents him to have acted in a different capacity from that in which he had power to convict. Conviction not questionable because capacity of convicting officer not shown.

18. Whenever any property shall have been attached or seized without either conviction or an adjudication of forfeiture by any officer of Government as property forfeited or liable to be forfeited to Government for an offence for which, upon conviction, the property of the offender would be forfeited, the validity of such attachment or seizure shall not be called in question by any Court or other authority in any suit or proceeding, unless the offender or alleged offender shall, within one year after the seizure of his property, have surrendered himself for trial, and upon trial before a competent Court shall have been or shall be acquitted of the offence, and shall prove to the satisfaction of the Court that he did not escape or keep out of the way for the purpose of evading justice. Attachment without adjudication of forfeiture not questionable unless offender be acquitted within one year, &c.

Nothing in this section shall extend to persons entitled to pardon upon Her Majesty's proclamation published in the *Calcutta Gazette Extraordinary,* Exemption of pardoned persons.

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[a] The object of the unrepealed parts of this Act is stated to be "to give validity to certain forfeitures or seizures of property which have been or are liable to be called in question on the ground of some irregularity of procedure or defect or informality in recording the conviction of the parties whose property has been forfeited or seized or of the absence of a formal adjudication of forfeiture as required by Act XXV of 1857."

dated the 1st of November 1858, or to any person who having surrendered himself within the period of one year after the seizure of his property shall be discharged by order of Government without a prosecution.

19. [*Repealed by Act No. VIII of* 1868.]

Rights of parties not charged with offence involving forfeiture.

Proviso.

20. Nothing in this Act shall be held to affect the rights of parties not charged with any offence for which upon conviction the property of the offender is forfeited, in respect of any property attached or seized as forfeited or liable to be forfeited to Government; provided that no suit brought by any party in respect of such property shall be entertained unless it be instituted within the period of one year from the date of the attachment or seizure of the property to which the suit relates. [a]

ACT No. XIII OF 1859.

Received the Governor-General's assent on the 4th May 1859.

An Act to provide for the punishment of breaches of contract by Artificers, Workmen and Labourers in certain cases. [b]

Preamble.

WHEREAS much loss and inconvenience are sustained by manufacturers, tradesmen, and others in the several presidency towns of Calcutta, Madras and Bombay, and in other places, from fraudulent breach of contract on the part of artificers, workmen, and labourers who have received money in advance on account of work which they have contracted to perform; and whereas the remedy by suit in the civil Courts for the recovery of damages is wholly insufficient, and it is just and proper that persons guilty of such fraudulent breach of contract should be subject to punishment; It is enacted as follows:—

Complaint to Magistrate if workman neglect to perform work for which he has received advance.

1. When any artificer, workman, or labourer [c] shall have received from any master or employer resident or carrying on business in any presidency town, or from any person acting on behalf of such master or employer, an advance of money [d] on account of any work which he shall have contracted to perform, or to get performed by any other artificers, workmen, or labourers, if such artificer, workman or labourer shall wilfully and without lawful or reasonable excuse neglect or refuse to perform or get performed such work according to the terms of his contract, such master or employer or any such person as aforesaid may

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[a] Sections 16, 17, 18 and 20 of this Act are declared to apply to the whole of British India, except the Scheduled Districts, Act XV of 1874.

[b] Cf. 4 Geo. IV, c. 34.

[c] The Act does not apply to contracts for domestic or personal service, 3 Beng., A. C. J., 32; and see 4 Beng., App. 1.

[d] See 9 Bomb. 171, *Reg.* v. *Jethyá valad Vestyá.*

complain to a Magistrate of Police, and the Magistrate shall thereupon issue a summons or a warrant, as he shall think proper, for bringing before him such artificer, workman, or labourer, and shall hear and determine the case.

Magistrate may order repayment of advance or performnace of contract.

2. If it shall be proved to the satisfaction of the Magistrate that such artificer, workman, or labourer has received money in advance from the complainant on account of any work, and has wilfully and without lawful or reasonable excuse neglected or refused to perform or get performed the same according to the terms of his contract, the Magistrate shall, at the option of the complainant, either order such artificer, workman, or labourer to repay the money advanced, or such part thereof as may seem to the Magistrate just and proper, or order him to perform, or get performed, such work according to the terms of his contract; and if such artificer, workman, or labourer shall fail to comply with the said order, the Magistrate may sentence him to be imprisoned with hard labour for a term not exceeding three months,[a] or if the order be for the repayment of a sum of money, for a term not exceeding three months or until such sum of money shall be sooner repaid; provided that no such order for the repayment of any money shall, while the same remains unsatisfied, deprive the complainant of any civil remedy by action or otherwise which he might have had but for this Act.

Penalty if workman fail to comply with order.

Magistrate may require workman to give security for due performance of order.

3. When the Magistrate shall order any artificer, workman, or labourer to perform or get performed any work according to the terms of his contract, he may also at the request of the complainant require such artificer, workman, or labourer to enter into a recognizance with sufficient security for the due performance of the order; and in default of his entering into such recognizance or furnishing such security to the satisfaction of the Magistrate, may sentence him to be imprisoned with hard labour for a period not exceeding three months.

To what contracts Act extends.

4. The word "contract," as used in this Act, shall extend to all contracts and agreements whether by deed, or written or verbal, and whether such contract be for a term certain, or for specified work, or otherwise.

Act may be extended by Government.

5. This Act may be extended by the Governor General of India in Council, or by the executive Government of any presidency or place, to any place within the limits of their respective jurisdictions.[b] In the event of this Act being so extended, the powers hereby vested in a Magistrate of Police shall be exercised by such officer or officers as shall be specially appointed by Government to exercise such powers.

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[a] *Reg.* v. *Jomá bin Bálu*, 4 Bomb., C. C., 37. As to civil suit for the advance after imprisonment, 2 Mad. 427.

[b] Extended to the Panjáb, 13th July 1859: to all Collectorates in the Bombay Presidency, *Bombay Govt. Gazette*, 1860, p. 594: to Sindh, *ibid.*, 4th December 1873, p. 1000: to the District of Nimar, *Calcutta Gazette*, 1862, p. 2980.

ACT No. XIV of 1859.

Received the Governor General's assent on the 5th May 1859.

An Act to provide for the Limitation of Suits.

Preamble.

WHEREAS it is expedient to amend and consolidate the laws relating to the limitation of suits; It is enacted as follows:—

1 to 14. [*Repealed by Act No. IX of* 1871.]

Person unlawfully dispossessed of land may recover possession.

15. If any person shall without his consent have been dispossessed of any immoveable property otherwise than by due course of law, such person or any person claiming through him, shall in a suit[a] brought to recover possession of such property be entitled to recover possession thereof notwithstanding any other title that may be set up in such suit. But nothing in this section shall bar the person from whom such possession shall have been so recovered, or any other person, from instituting a suit to establish his title to such property and to recover possession thereof.

ACT No. XV of 1859.[b]

Received the Governor General's assent on the 17th May 1859.

An Act for granting exclusive Privileges to Inventors.

Preamble.

WHEREAS Act VI of 1856, entitled "An Act for granting exclusive privileges to Inventors," was passed by the Legislative Council of India without the sanction of Her Majesty to the passing thereof having been previously obtained and signified in pursuance of the Statute passed in the seventeenth year of the reign of Her Majesty, entitled "An Act to provide for the Government of India:" and whereas Her Majesty's Law Officers having given it as their opinion that the Legislative Council of India was not competent to pass Act VI of 1856 without previously obtaining the sanction of the Crown, and the Court of Directors of the East India Company having in pursuance of the power vested in them by law disallowed Act VI of 1856, and having signified to the Governor General of India in Council their disallowance thereof, the said Act was repealed by Act IX of 1857; and whereas it is expedient, for the encouragement of inventors of new manufactures, that certain exclusive privileges in their inventions should be granted to them in India, and that exclusive

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[a] The suit must be brought within six months from the date of the dispossession, Act No. IX of 1871, sched. II, No. 3. As to the court-fee, Act No. VII of 1870, sched. I, No. 2. As to bar of appeals and reviews, Act No. XXIII of 1861, s. 26.

[b] Amended by Act No. XIII of 1872. Declared to apply to the whole of British India, except the Scheduled Districts, Act No. XV of 1874.

privileges obtained under the said Act should be protected: It is enacted as follows (the sanction of Her Majesty to the passing of this Act having been previously obtained and signified in pursuance of the said Statute):—

1. The inventor of any new manufacture may petition the Governor General of India in Council for leave to file a specification thereof. Every such petition shall be in writing in the form or to the effect mentioned in the schedule hereunto annexed, and shall be signed by the petitioner, or, in case the petitioner shall be absent from India, by an authorized agent, and shall state the name, addition, and place of residence of the petitioner, and the nature of the invention.

Inventor may petition for leave to file specification.

Form, &c., of petition.

[a] For the purposes of this Act, 'new manufacture' shall be deemed to include any new and original pattern or design, or the application of such pattern or design to any substance or article of manufacture.

'New manufacture' defined.

2. Upon such petition, the Governor General of India in Council may make an order authorizing the petitioner to file a specification of the invention.

Order to file specification.

3. Before making such order, the Governor General of India in Council may refer the petition to any person or persons for enquiry and report, and such person or persons shall be entitled to a reasonable fee for such enquiry and report to be paid by the petitioner; the amount of such fee, in case of dispute, to be settled by a Judge of one of Her Majesty's Courts of Judicature in a summary manner.

Power to refer petition for enquiry and report.

4. If, within the space of six calendar months from the date of such order, the petitioner cause a specification of his invention to be filed in manner hereinafter mentioned, the petitioner, his executors, administrators or assigns, shall be entitled to the sole and exclusive privilege of making, selling, and using the said invention in India, and of authorizing others so to do, for the term of fourteen years from the time of filing such specification, and for such further term (if any), not exceeding fourteen years from the expiration of the first fourteen years, as the Governor General of India in Council may think fit to direct, upon petition to be presented by such inventor, at any period not more than one year, and not less than six calendar months, before the expiration of the exclusive privilege hereby granted.

Petitioner entitled to exclusive privilege for 14 years from time of filing specification.

Extension of term of exclusive privilege.

[b] Provided that, in the case of a pattern or design or the application thereof to any substance or article of manufacture, such privilege shall be granted for the term of three years and no more.

5. An order authorizing the filing of a specification, or for extending the term of such exclusive privilege as aforesaid, may be made subject to any such

Order to file specification

[a] See Act No. XIII of 1872, section 2.
[b] See Act No. XIII of 1872, section 3.

may be made subject to conditions.

conditions and restrictions as the Governor General of India in Council may think expedient.[a]

Specification to be in writing and to describe the invention.

6. Every specification of an invention filed under this Act shall be in writing, and shall be signed by the petitioner, and shall particularly describe and ascertain the nature of the said invention and in what manner the same is to be performed.

Petition and specification to be left with secretary to Government.

Petition, &c., to be accompanied by declaration.

7. Every petition for leave to file a specification and every specification filed under this Act shall be left with the secretary to the Government of India in the Home Department, and every petition and specification shall be accompanied by a declaration in writing signed by the petitioner in the forms or to the effect mentioned in the schedule hereunto annexed, and if the inventor be absent from India, the petition and specification shall also be accompanied by a declaration signed by the agent who shall present or file the same, to the effect that he verily believes that the declaration purporting to be the declaration of the inventor was signed by him, and that the contents thereof are true, which declaration shall be in the form or to the effect mentioned in the said schedule.

Date of delivery to be endorsed on petition.

The date of the delivery of every such petition and specification shall be endorsed on the same respectively, and shall also be recorded at the office of the said secretary.

False statement in declaration punishable as perjury.

8. If any person who shall make a declaration under this Act shall wilfully and corruptly make any false statement therein, he shall be deemed guilty of perjury, and shall be proceeded against, and upon conviction punished accordingly.

Specification not to be filed before payment of fees.

9. No specification shall be filed until the petitioner shall have paid all fees payable under this Act, including the fees (if any) of the person or persons to whom the petition shall have been referred for enquiry and report.

Copies of specification to be delivered and distributed.

10. At the time of delivering the specification for the purpose of being filed, the petitioner shall cause to be delivered to the said secretary five copies thereof, of which

one shall be sent to and filed by one of the secretaries to the Government of Bengal;

one shall be sent to and filed by one of the secretaries to the Government of Fort St. George;

one shall be sent to and filed by one of the secretaries to the Government of Bombay; and

one shall be sent to and filed by one of the secretaries to the Government of the North-Western Provinces.

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[a] Compare 15 & 16 Vic., c. 83, s. 16.

A copy of such specification shall be open at all reasonable times at the office of each of the said secretaries to public inspection upon payment of a fee of one rupee.

To be open to inspection.

11. A book shall be kept in the office of the said secretary to the Government of India wherein shall be entered and recorded every such petition and specification and every order made upon such petition or relating to the invention therein mentioned.

Book for the registry of petitions, specifications, &c.

Every specification shall be numbered according to the order in which it is entered in such book; and a reference shall be made in such book, in the margin of the entry of each specification, to every order relating to the invention, and to every petition, memorandum, or amended specification which shall be filed under the provisions of section 14.

12. Such book, or a copy thereof, shall be open at all convenient times for the inspection of any person upon payment of a fee of one rupee; and the said secretary shall cause a copy of any entry therein, certified under his hand, to be given to any person requiring the same, on payment of the expense of copying.

Inspection of registry-book.

Certified copy of entry to be given.

13. Every such certified copy shall be *primâ facie* evidence of the document of which it purports to be a copy.

Certified copy to be *primâ facie* evidence.

14. If, after the filing of the specification, the petitioner shall have reason to believe that through mistake or inadvertence he has erroneously made any mis-statement in his petition or specification, or included therein something which at the date of his petition was not new or whereof he was not the inventor, or that such specification is in any particular defective or insufficient, he may petition the Governor General in Council for leave to file a memorandum pointing out such error, defect, or insufficiency, and disclaiming any part of the alleged invention, or, in case of any defect or insufficiency of the specification, for leave to file an amended specification.

When petitioner may apply for leave to file amended specification.

The petition shall state how the error, defect, or insufficiency occurred and that it was not fraudulently intended, and shall be accompanied by a declaration in writing signed by the petitioner, and if he be absent from India by his agent, stating that the contents of such petition are true to the best of his knowledge and belief.

Upon such petition the Governor General in Council may make an order allowing such memorandum or amended specification to be filed.

All the provisions of sections 10, 11, 12 and 13, applicable to specifications, shall be applicable to the petitions, orders, and memoranda or amended specifications referred to in this section.

Effect of amended specification.

An amended specification filed under the provisions of this Act shall, except as to suits or proceedings relating to the exclusive privilege which shall be pending at the time of the filing of such amended specification, have the same effect as if it had been the specification first filed, provided that nothing contained in an amended specification shall extend or enlarge any exclusive privilege before acquired.

Bar to exclusive privilege, if invention of no utility, or

if invention not new, or

if petitioner not inventor, or

if specification does not describe the invention, or

if petition contain wilful or fraudulent mis-statement.

15. No person shall be entitled to any exclusive privilege under the provisions of this Act—

if the invention is of no utility, or

if the invention, at the time of presenting the petition for leave to file the specification, was not a new invention within the meaning of this Act, or

if the petitioner is not the inventor thereof, or

if the specification filed or the amended specification (if any) does not particularly describe and ascertain the nature of the invention and in what manner the same is to be performed, or

if the original or any subsequent petition relating to the invention, or the original or any amended specification, contain a wilful or fraudulent misstatement.

Exclusive privilege to cease if Government declare it mischievous, &c., to public,

or if Government, upon breach of condition proved, declare that it shall cease.

16. Every exclusive privilege under this Act shall cease if the Governor General of India in Council shall declare that the same, or the mode in which it is exercised, is mischievous to the State, or generally prejudicial to the public; or if a breach of any special condition on which the petitioner shall be authorized to file a specification, or upon which the term of the exclusive privilege shall be extended, shall be proved to the satisfaction of any of Her Majesty's Courts of Judicature, and if the Governor General of India in Council shall thereupon declare that such exclusive privilege shall cease.

Importer not to be deemed inventor.

17. The importer into India of a new invention shall not be deemed an inventor within the meaning of this Act, unless he be the actual inventor.

Foreign inventor.

18. A foreigner, whether resident abroad or not, may petition for leave to file a specification under this Act.

Invention not used or known before application to file specification, to be deemed new.

19. An invention shall be deemed a new invention within the meaning of this Act, if it shall not, before the time of applying for leave to file the specification, have been publicly used in India or in any part of the United Kingdom of Great Britain and Ireland, or been made publicly known in any part of India or of the United Kingdom by means of a publication, either printed or written or partly printed and partly written.

Knowledge of invention

The public use or knowledge of an invention, prior to the application for leave to file a specification, shall not be deemed a public use or knowledge within

the meaning of this section, if the knowledge shall have been obtained surreptitiously or in fraud of the inventor, or shall have been communicated to the public in fraud of the inventor, or in breach of confidence:

fraudulently acquired.

provided the inventor shall, within six calendar months after the commencement of such public use, apply for leave to file his specification, and shall not previously have acquiesced in such public use;

Proviso.

provided also that the use of an invention in public by the inventor thereof, or by his servants or agents, or by any other person by his license in writing for a period not exceeding one year prior to the date of his petition, shall not be deemed a public use thereof within the meaning of this Act.[a]

Public use by inventor.

20. If an inventor who, prior to the time of applying for leave to file a specification of an invention under this Act, shall have obtained Her Majesty's Letters Patent for the exclusive use of such invention in the United Kingdom or any part thereof shall, within twelve calendar months from the passing of this Act, or within twelve calendar months from the date of such Letters Patent, petition the Governor General of India in Council for leave to file a specification of such invention (which petition shall be in writing in the form or to the effect mentioned in the schedule), the invention shall be deemed a new invention within the meaning of this Act, if it was not publicly known or used in India at or before the date of the petition for such Letters Patent, notwithstanding it may have been publicly known or used in some part of the United Kingdom or in India before the time of his petitioning under this Act for leave to file the specification;

Petition under Act from inventor who has obtained English Letters Patent.

Invention when to be deemed new within meaning of Act.

Provided the petition for leave to file the specification shall state that such Letters Patent have been granted, and shall also state the date thereof and the term during which the same are to continue in force.

What to be stated in such petition.

Provided also that an exclusive privilege obtained under the provisions of this Act, by an inventor who has obtained Her Majesty's Letters Patent for the exclusive use of such invention, shall cease to have effect, if such Letters Patent be revoked or cancelled; and that no such exclusive privilege shall extend beyond the term granted by such Letters Patent unless the same shall be renewed, in which case the exclusive privilege may be renewed under this Act for the extended term or any part thereof.

Duration of exclusive privilege.

21. No exclusive privilege obtained under this Act shall entitle the owner of such privilege to exclude any person from using the invention, who, prior to the 7th day of July 1855, used the same in India.

Rights of users of invention before 7th July 1855

[a] The public use here contemplated "is merely a use for the purpose of experiment or trial. For such purposes the period of one year which we propose will be sufficient. If the inventor use his invention in public for a longer period without obtaining an exclusive privilege, it may reasonably be inferred that he intends to dedicate it to the public." *Report of Select Committee.*

Action for infringement.

22. An action may be maintained by an inventor against any person who, during the continuance of any exclusive privilege granted by this Act, shall, without the license of the said inventor, make, use, sell, or put in practice the said invention, or who shall counterfeit or imitate the same.

What Court has jurisdiction.

Provided that no such action shall be maintained in any Court other than the principal Court of original jurisdiction in civil cases within the local limits of whose jurisdiction the cause of action shall accrue or the defendant shall reside as a fixed inhabitant.

Grounds on which action not defensible.

23. No such action shall be defended upon the ground of any defect or insufficiency of the specification of the invention, nor upon the ground that the original or any subsequent petition relating to the invention, or the original or any amended specification, contains a wilful or fraudulent mis-statement, nor upon the ground that the invention is not useful; nor shall any such action be defended upon the ground that the plaintiff was not the inventor, unless the defendant shall show that he is the actual inventor or has obtained a right from him to use the invention either wholly or in part.

Defence to action.

Any such action may be defended upon the ground that the invention was not new, if the person making the defence, or some person through whom he claims, shall, before the date of the petition for leave to file the specification, have publicly or actually used in India or in some part of the United Kingdom, the invention, or that part of it of which the infringement shall be proved; but not otherwise.

Application to declare exclusive privilege not acquired by reason that—

24. It shall be lawful for any person to apply by motion to any of Her Majesty's Courts of Judicature for a rule to show cause why the Court should not declare that an exclusive privilege in respect of an invention has not been acquired under the provisions of this Act by reason of all or any of the objections following (to be specified in the rule), that is to say:—

invention of no utility;

that the said invention is of no utility, or

invention not new;

that the said invention was not, at the time of presenting the petition for leave to file the specification, a new invention within the meaning of this Act, or

petitioner not inventor;

that the petitioner was not the inventor thereof, or

invention not sufficiently described;

that the specification filed or the amended specification (if any) does not particularly describe and ascertain the nature of the invention, or in what manner the same is to be performed, or

something included by fraud;

that the petitioner has knowingly or fraudulently included in the petition or specification or amended specification, as part of his invention, something which was not new or whereof he was not the inventor, or

that the original or any subsequent petition relating to the invention or the original or any amended specification contains a wilful or fraudulent mis-statement, or

mis-statement fraudulently made;

that some part of the invention, or the manner in which that part is to be performed, as described in the specification filed or the amended specification, is not thereby sufficiently described and ascertained, and that such defect or insufficiency was fraudulent and is injurious to the public.

part of invention insufficiently described.

25. Any person may, in like manner, apply to any of Her Majesty's Courts of Judicature for a rule to show cause why the Court should not declare that an exclusive privilege has not been acquired under the provisions of this Act in respect of any part of the invention to be specified in the rule by reason of all or any of the objections following (to be specified in the rule) that is to say:—

Like application as to part of invention.

that such part of the invention is wholly distinct from the other part thereof and is of no utility, or

that such part of the invention was not, at the date of the petition for leave to file the specification, a new invention within the meaning of this Act, or

that the petitioner was not the inventor of that part of the invention, or

that that part of the invention, and the manner in which it is to be performed, is not sufficiently described and ascertained in the specification filed, or the amended specification, and that such defect or insufficiency is injurious to the public.

26. It shall be lawful for the Advocate General at any of the presidencies of Fort William in Bengal, Fort St. George, and Bombay, or any other person, by order of the Governor General in Council, to apply to any of the said Courts of Judicature for a rule calling upon the petitioner, his executors, administrators, or assigns, to show cause why the question of the breach of any special condition upon which the leave to file a specification has been granted, or any other question of fact on which the revocation of the exclusive privilege by the Governor General in Council under the power hereinbefore reserved may, in the judgment of the said Governor General in Council, depend, should not be tried in the form of an issue directed by the said Court; and if the rule be made absolute, the Court, unless the breach or other matter of fact be admitted, may thereupon direct such issue to be tried, and certify the result of such trial to the Governor General in Council.

Application by Advocate General on breach of special condition.

The costs of such trial, and also the costs of any proceedings in any of the said Courts of Judicature under the provisions of this Act, shall be in the discretion of the Court.

Costs.

Notice of proceedings to persons interested.

27. Notice of any rule obtained or proceeding taken under either of the last three preceding sections shall be served on all persons appearing to be proprietors or to have shares or interests in the exclusive privilege under the provisions of section 35 of this Act, and it shall not be necessary to serve such notice on any other persons.

Supreme Court may direct issue for trial before other Court.

28. Any of the said Courts of Judicature, if it think fit, may direct an issue for the trial, before the same Court or any other Court of Judicature or any principal Court of original jurisdiction in civil cases, of any question of fact arising upon an application under sections 24, 25 or 26 of this Act, and such issue shall be tried accordingly in a summary manner, and, if the issue be directed to another Court, the finding shall be certified by the Court before which the same was tried, to the Court directing the issue. If the issue be directed to any Court of Judicature,[a] the Court by which the issue is tried may, before the finding is certified, direct a new trial of such issue according to the usual course and practice of such Court. If the issue be directed to any Court other than a Court of Judicature,[b] the finding shall not be subject to appeal, but the evidence taken upon the trial shall be recorded, and a copy thereof, certified by the Judge, shall be transmitted, together with any remarks he may think fit to make thereon, to the Court by which the issue was directed; and such Court may either act upon the decision of the Court which tried the issue, or direct a new trial if it shall appear necessary.

New trial.

Judgment.

29. If it shall appear to any of the said Courts of Judicature at the hearing of any application under the provisions of sections 24 or 25 of this Act that by reason of any of the objections therein mentioned, the said exclusive privilege in the invention or in any part thereof has not been acquired, the Court shall give judgment accordingly, and shall make such order as to the costs of and consequent upon the application as it may think just: and thereupon the petitioner, his executors, administrators and assigns shall, so long as the judgment continues in force, cease to be entitled to such exclusive privilege.

Costs.

Adjudication where error, defect or insufficiency found, but no fraud, and

30. If the Court, at the hearing of any such application as last aforesaid, shall think that the petitioner has, in the description of his invention in the petition or specification or amended specification (if any), included something which at the date of the petition was not new or whereof he was not the inventor, or that the specification is in any particular defective or insufficient, but that the error, defect, or insufficiency was not fraudulently intended, the Court may adjudge the said exclusive privilege to have been acquired and to be valid, save as to the part thereof affected by such error, defect, or insufficiency;

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[a], [b] See sec. 38 *infra*.

or if the Court shall think that the error, defect, or insufficiency can be amended without injury to the public, they may adjudge the exclusive privilege in the whole of the invention to be valid, and may, upon such terms as shall appear reasonable, order the specification to be amended in any of the said particulars; and thereupon the petitioner, his executors, administrators or assigns shall, within the time limited by the said Court for the purpose, file a specification amended according to such order.

where error, &c., capable of amendment.

Provided that no such amended specification shall have the effect of extending or enlarging the exclusive privilege before acquired.

Proviso.

31. An exclusive privilege shall not be defeated upon the ground that the petition contains a mis-statement, unless such mis-statement was wilful or fraudulent.

Mis-statement not fraudulent, not to defeat privilege.

32. Whenever it shall be adjudged by any of the said Courts of Judicature that an exclusive privilege as to the whole or any part of an invention has not been acquired, the said secretary to the Government of India shall, upon the production of the judgment or order, cause an entry thereof to be made in the said book hereinbefore[a] directed to be kept, and shall cause a reference to such entry to be made in the margin of the entry of the specification contained in such book.

Entry in registry-book of judgment, &c., declaring privilege not to have been acquired.

33. If, upon proceedings instituted within two years from the date of a petition to file a specification, the actual inventor shall prove to the satisfaction of the principal Court having jurisdiction in civil cases within the local limits of whose jurisdiction the defendant shall reside as a fixed inhabitant, that the petitioner was not the actual inventor, and that at the time of the petition he knew or had good reason to believe that the knowledge of the invention was obtained by himself or by some other person surreptitiously or in fraud of the actual inventor, or by means of a communication made in confidence by the actual inventor, to him or to any person through whom he derived such knowledge, the Court may compel the petitioner to assign to the actual inventor any exclusive privilege obtained under this Act and to account for and pay over the profits thereof.

In what case actual inventor entitled to assignment of exclusive privilege fraudulently obtained.

34. In any action for the infringement of such exclusive privilege, the plaintiff shall deliver with his plaint particulars of the breaches complained of in the said action; and the defendant shall deliver a written statement of the particulars of the grounds (if any) upon which he means to contend that the plaintiff is not entitled to an exclusive privilege in the invention.

Particulars to be delivered.

In like manner, upon any application to any of the said Courts of Judicature under sections 24, 25 or 26 of this Act, the applicant shall deliver particulars of the objections on which he means to rely.

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[a] See sec 11.

At the trial of any such action or issue, no evidence shall be allowed to be given in support of any alleged infringement or of any objection impeaching the validity of such exclusive privilege which shall not be contained in the particulars delivered as aforesaid.

If it be alleged that the invention was publicly known or used prior to the date of the petition for leave to file such specification, the places where and the manner in which the invention was so publicly known or used shall be stated in such particulars.

Provided always that it shall be lawful for any Court in which the action or proceeding is pending, or in which the issue is tried, to allow the plaintiff or defendant respectively to amend the particulars delivered as aforesaid upon such terms as shall seem fit.

Registry of place for service of proceedings against privilege-holder.

35. A book shall be kept in the office of the secretary to the Government of India in the Home Departmant (such book to be open to inspection without fee) wherein every person filing a specification under this Act, or any person to whom the exclusive privilege may be assigned, shall cause to be stated some place in India where service of any rule or proceedings for the purpose of cancelling or revoking his exclusive privilege may be made, and shall cause a reference to such entry to be made in the margin of the entry of the specification, and may from time to time cause any other place in India to be substituted by a similar entry and reference.

What service sufficient.

All such rules and proceedings as aforesaid shall be deemed sufficiently served if a copy thereof be left at the place entered in such book or (if any other place be substituted for the same by entry in the said book) at the place last substituted, by delivering the same to any person resident at or in charge of such place: or, if there be no person resident at or in charge of such place, or if such place be not within the local limits of the jurisdiction of the Court, by causing such rule or proceeding to be sent by post by a registered letter directed to such person at such place; and if any such person shall neglect to make or cause to be made such entry, then service of such rule or proceeding may be effected by affixing a copy thereof to some conspicuous part of the Court-house or in such other manner as the Court may direct.

Act VI of 1856 to have effect in respect of certain specifications filed and acts done.

36. Act VI of 1856 shall be of the same force and effect in respect to every petition and specification filed under the provisions thereof before the Act was repealed, and in regard to all proceedings consequent thereon or in relation thereto, and for the purpose of every thing done under that Act while it continued in force, as if previously to the passing of the said Act the sanction of Her Majesty to the passing thereof had been obtained and signified in pursuance of the Statute passed in the seventeenth year of the reign of

Her Majesty, entitled "An Act to provide for the Government of India," and as if the said Act had not been repealed; and the term of every exclusive privilege obtained under the said Act is hereby extended and shall continue until the expiration of fourteen years from the time of the passing of this Act.

Privileges obtained thereunder.

No exclusive privilege obtained under the said Act by an importer not being the actual inventor shall cease to have effect by virtue of the provisions of section 16 of the said Act, if the invention be put in practice in India within the period of two years from the time of the passing of this Act.

Saving of privilege obtained by importer.

37. [*Repealed by Act No. XVIII of* 1869. *See Schedule II, No.* 40, *of that Act.*]

Stamp.

37A.[a] Whenever, by any law for the time being in force in the United Kingdom, any person is entitled in the United Kingdom to an exclusive right in any pattern or design, or in the application of such pattern or design to any substance or article of manufacture, such person shall be entitled in British India to the sole and exclusive right in such pattern or design, or in such application thereof, and shall be entitled in British India to the same civil remedies in respect of any infringement thereof in British India, as those to which he would be entitled in the United Kingdom in respect of an infringement thereof in the United Kingdom.

Persons invested by English law with rights as to patterns and designs, to have same rights in British India.

38. In the construction of this Act, the following words and expressions shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction :—

Interpretation-clause.

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number:

Number.

Words importing the masculine gender shall include females:

Gender.

The word "invention" shall include an improvement:

"Invention."

The word "manufacture" shall be deemed to include any art, process, or manner of producing, preparing, or making an article, and also any article prepared or produced by manufacture:

"Manufacture."

The word "printed" shall include "lithographed;"

"Printed."

The words "inventor" and "actual inventor" shall include the executors, administrators, or assigns of an inventor or actual inventor as the case may be:

"Inventor" and "actual inventor."

The word "assigns" shall include grantees of the sole use or benefit in India of an invention or of the sole use of an exclusive privilege for a limited time:

"Assigns."

The word "India" shall mean the territories which are or may become vested in Her Majesty by the Statute 21 & 22 Vic., c. 106, entitled "An Act for the better Government of India:"

"India."

[a] See Act No. XIII of 1872, sec. 4.

"Governor General in Council."

"Secretary to the Government of India."

"Her Majesty's Courts of Judicature."

"Courts of Judicature."

The words "Governor General in Council" shall include the "President in Council:"

The words "Secretary to the Government of India" shall include any Under-Secretary to the said Government:

The expressions "Her Majesty's Courts of Judicature" and "Courts of Judicature" shall mean the Courts established by Royal Charter.

SCHEDULE OF FORMS.

FORM OF PETITION—(*see section* 1.)

To the Governor General of India in Council.

The petition of (*here insert name, addition, and place of residence*) for leave to file a specification under Act No. XV of 1859.

SHEWETH,

That your petitioner is in possession of an invention for (*state the title of the invention*) which invention he believes will be of public utility; that he is the inventor thereof (*or, as the case may be,* the assignee *or* the executor *or* administrator of the inventor); and that the same is not publicly known or used in India or in any part of the United Kingdom of Great Britain and Ireland to the best of his knowledge and belief.

The following is a description of the invention (*here describe it*).

Your petitioner therefore prays for leave to file a specification of the said invention pursuant to the provisions of Act No. XV of 1859.

And your petitioner, &c.

(*Signed*)

The day of

FORM OF DECLARATION TO ACCOMPANY PETITION—(*see section* 7).

I (*here insert name, addition, and place of residence*) do solemnly and sincerely declare that I am in possession of an invention for (*state the title of the invention as in the petition*); that I believe the said invention will be of public utility; that I am the inventor thereof (*or, as the case may be,* the assignee *or* executor *or* administrator of the inventor), and that the same is not publicly known or used in India or in any part of the United Kingdom of Great Britain and Ireland to the best of my knowledge and belief; and that, to the best of my knowledge and belief, my said invention is truly described in my petition for leave to file a specification thereof.

The day of

(*Signed*)

FORM OF DECLARATION TO ACCOMPANY SPECIFICATION—*(see section 7.)*

I *(here insert name, addition, and place of residence)* do solemnly and sincerely declare that I am in possession of an invention for *(state the nature of the invention)*, which invention I believe will be of public utility; that I am the inventor thereof *(or, as the case may be,* the assignee *or* executor *or* administrator of the inventor), and that the same is not publicly known or used in India or in any part of the United Kingdom of Great Britain and Ireland to the best of my knowledge and belief; and that, to the best of my belief, the instrument in writing under my hand hereunto annexed particularly describes and ascertains the nature of the said invention, and in what manner the same is to be performed.

The day of

(Signed)

FORM OF DECLARATION BY AN AGENT WHERE AN INVENTOR IS ABSENT FROM INDIA—*(see section 7.)*

I of do solemnly and sincerely declare that I have been appointed by the said his agent for the purpose of ; and I verily believe that the declaration purporting to be the declaration of the said marked ( ) was signed by him, and that the contents thereof are true.

The day of

(Signed)——————

FORM OF PETITION—*(see section 20.)*

That your petitioner *(or, as the case may be,* that *A. B.* of whom your petitioner is the assignee *or* executor *or* administrator) has obtained Her Majesty's Letters Patent dated the day of for *(state the title of the invention)*, and that such Letters Patent are to continue in force for years. That your petitioner believes that the said invention is not now and has not hitherto been publicly known or used in India.

The following is a description of the invention *(here describe it.)*

Your petitioner therefore prays for leave to file a specification of the said invention pursuant to the provisions of Act No. XV of 1859.

And your petitioner, &c.

(Signed)

The day of

ACT No. II OF 1860.

Received the Governor General's assent on the 15th January 1860.

An Act to amend the law relating to the Carriage of Passengers by Sea.

Preamble.

WHEREAS by section XCIX of an Act[a] of the Imperial Parliament called "The Passengers Act, 1855," it is enacted that "it shall be lawful for the Governor General of India in Council, from time to time, by any Act or Acts to be passed for that purpose, to declare that this Act or any part thereof shall apply to the carriage of passengers upon any voyage, from any ports or places within the territories of British India, to be specified in such Act or Acts, to any other places whatsoever, to be also specified in such Act or Acts:" and it is thereby also enacted that "on the passing of such Indian Act or Acts, and whilst the same shall remain in force, all such parts of this Act as shall be adopted therein shall apply to and extend to the carriage of passengers upon such voyages as in the said Indian Act or Acts shall be specified. The provisions of such Indian Act shall be enforced in all Her Majesty's possessions in like manner as the provisions of this Act may be enforced." And whereas it is expedient to make certain parts of the said Act of Parliament applicable to the carriage of passengers upon the voyages hereinafter specified: It is enacted as follows:—

Certain provisions of the Statute made applicable.

1. The provisions contained in sections 2, 3 and 4 of this Act (being parts of the said Act of Parliament) are declared applicable to the carriage of passengers upon the following voyages:—

Voyages from the ports of Calcutta, Madras and Bombay, to the Mauritius:

Voyages from the ports of Calcutta, Madras and Bombay, to Jamaica, British Guiana, and Trinidad:

Voyages from the ports of Calcutta, Madras and Bombay, to St. Lucia and Grenada:

Voyages from ports in British India, to ports in the Red Sea or Persian Gulf, under the Native Passenger Ships Act, 1870.[b]

Governors or Consuls may pay expenses of passengers taken off passenger-ship.

2. If the passengers on any such voyage as is specified in the last preceding section, shall be taken off from the ship carrying such passengers, or shall be picked up at sea from any boat, raft, or otherwise, it shall be lawful, if the port or place to which they shall be conveyed shall be in any of Her Majesty's colonial possessions, for the Governor of such colony, or

[a] 18 & 19 Vic., c. 119.
[b] See Act No. XII of 1870, section 3.

for any person authorized by him for the purpose, or if in any foreign country, for Her Majesty's consular officer, at such port or place therein, to defray all or any part of the expenses thereby incurred.[a]

Governors or Consuls may send on passengers, if the master of the ship fail to do so.

3. If any passenger of any such passenger-ship as aforesaid shall, without any neglect or default of his own, find himself within any colonial or foreign port or place other than that at which he may have contracted to land, it shall be lawful for the Governor of such colony, or for any person authorized by him for the purpose, or for Her Majesty's consular officer at such foreign port or place, as the case may be, to forward such passenger to his intended destination, unless the master of such ship shall, within forty-eight hours of the arrival of such passenger, give to the Governor or consular officer, as the case may be, a written undertaking to forward or carry on within six weeks thereafter such passenger to his original destination, and unless such master shall accordingly forward or carry him on within that period.[b]

Expenses incurred under sections 2 and 3 to be a Crown debt.

4. All expenses incurred under the last two preceding sections or either of them, by or by the authority of such Governor or consular officer, as aforesaid, including the cost of maintaining the passengers until forwarded to their destination, and of all necessary beddings, provisions, and stores, shall become a debt to Her Majesty and Her successors from the owner, charterer, and master of such ship, and shall be recoverable from them, or from any one or more of them, at the suit and for the use of Her Majesty, in like manner as in the case of other Crown debts; and a certificate purporting to be under the hand of any such Governor or consular officer (as the case may be) stating the total amount of such expenses, shall in any suit or other proceeding for the recovery of such debt be received in evidence without proof of the hand-writing or of the official character of such Governor or consular officer, and shall be deemed sufficient evidence of the amount of such expenses, and that the same were duly incurred.

Provided nevertheless that in no case shall any larger sum be recovered on account of such expenses than a sum equal to twice the total amount of passage-money received by the owner, charterer, or master of such passenger-ship or any of them, from or on account of the whole number of passengers who may have embarked in such ship; which total amount of passage-money shall be proved by the defendant if he will have the advantage of this limitation of the debt: but if any such passengers are forwarded or conveyed to their intended destination under the provisions of the last preceding section, they shall not be entitled to the return of their passage-money, or to any compensation for loss of passage.[c]

Passengers forwarded by Governor, &c., not entitled to compensation.

[a] 18 & 19 Vic., c. 119, s. 52. [b] 18 & 19 Vic., c. 119, s. 53 [c] 18 & 19 Vic., c. 119, s. 54.

ACT No. VIII of 1860.

Received the Governor General's assent on the 12th March 1860.

An Act for regulating the establishment and management of Electric Telegraphs in India.

Preamble.

WHEREAS it is expedient that better provision should be made for regulating the establishment and management of lines of Electric Telegraph in India: It is enacted as follows:—

1. [*Repealed by Act No. XIV of* 1870.]

Exclusive privilege of Government.

2. Within the British territories in India, the Governor General of India in Council shall have the exclusive privilege of establishing lines of electric telegraph.

License to person or Company.

Provided that the Governor General of India in Council may grant a license to any person or Company to establish a line of electric telegraph within any part of such territories, which license shall be revocable on the breach of any of the conditions therein contained.

Penalties for establishing or maintaining unauthorized electric telegraphs.

3. Whoever shall otherwise than under a license duly granted as aforesaid establish, or after revocation of such license maintain, a line of electric telegraph within the said territories, shall be liable to a fine not exceeding one thousand rupees, and for every week during which such line shall be maintained shall be liable to a further fine not exceeding five hundred rupees.

Penalty for using or working such telegraphs.

4. Whoever shall use a line of electric telegraph, knowing or having reason to believe that it is an unlicensed line, for the purpose of sending or receiving messages, or shall perform any service incidental thereto, shall for every such offence be liable to a fine not exceeding fifty rupees.

Government may take possession of licensed line.

5. The Governor General of India in Council may, on the occurrence of any public emergency, take temporary possession of any line of electric telegraph established under license within the said territories.

Government may establish telegraphs on land of Railway Company.

6. Any Railway Company, on being required so to do by the Governor General of India in Council, shall permit the Government to establish upon the land of such Company adjoining the line of railway, a line of electric telegraph, and shall give every reasonable facility for establishing and using the same.

Power to frame rules for conduct of Government telegraphs.

7. The Governor General of India in Council may from time to time frame rules for the conduct of electric telegraphs established by Government not inconsistent with this Act, and therein prescribe the regulations, conditions, and restrictions according to which all messages and signals shall be transmitted.

Responsibility for loss or damage

8. The Government shall not be responsible for any loss or damage which may occur in consequence of any person employed by the Government in the

Electric Telegraph Department failing to transmit with accuracy any message entrusted to him for transmission; and no such person shall be responsible for any such loss or damage, unless he shall cause the same negligently, maliciously, or fraudulently. from inaccuracy.

9. Whoever shall, without permission, enter into the signal-room of a Government telegraph-office, or shall refuse to quit the same on being requested to do so by any officer or servant employed therein, or shall wilfully obstruct or impede any such officer or servant in the performance of his duty, shall be liable to a fine not exceeding one hundred rupees. Penalty for intruding into signal-room, &c.

10. Whoever shall wilfully cause or attempt to cause any interruption to the transmission of signals along a line of electric telegraph established by the Government, by cutting or injuring the wire, or by injuring any portion of the line or posts or any instrument or apparatus, or by any other means, shall be liable to imprisonment, with or without hard labour, for a term not exceeding two years, or to fine, or to both. Penalties for cutting line.

11. Whoever, being in the employ of the Government in the Electric Telegraph Department, shall wilfully secrete, make away with, alter, or omit to transmit any message which he may have received for transmission or delivery, or shall wilfully or otherwise than by the official order of a secretary to the Government of India, or Government of Madras or Bombay, or Lieutenant Governor of Bengal or of the North-Western Provinces, or of the Panjáb, or Chief Commissioner of Oudh, or such other officers as the Governor General of India in Council shall authorize to give such order, divulge any message or the purport of any message or signal to any person not entitled to receive, or to become acquainted with the same—shall be liable to be imprisoned with or without hard labour, for a term not exceeding two years, or to fine, or to both. Penalties for omitting to transmit or deliver messages or for divulging messages, &c.

12. Whoever offers a bribe to any person in the employ of the Government in the Electric Telegraph Department in order to induce such person to act in a manner inconsistent with his duty, shall be liable to be imprisoned for a term not exceeding six months, or to fine, or to both. Penalty for offering bribe.

13. Whoever, being in such employ, shall be guilty of any act of drunkenness, carelessness, or other misconduct, whereby the transmission or delivery of any message shall be endangered, or who shall loiter or make delay in the transmission or delivery of any message, shall be liable to imprisonment, with or without hard labour, for a term not exceeding three months, or to a fine not exceeding one hundred rupees, or to both. Penalty for misconduct.

14. Whoever, being in such employ, shall transmit by the electric telegraph any message upon which the prescribed charge has not been paid, Penalties for sending messages without

payment to Government.

intending thereby to defraud the Government, shall be liable to be imprisoned, with or without hard labour, for a term not exceeding two years, or to fine, or to both.

Penalties for sending fabricated message.

15. Whoever shall transmit or cause to be transmitted by an electric telegraph established by Government a message which he knows to be false or fabricated, shall be liable to be imprisoned, with or without hard labour, for a term not exceeding two years, or to fine, or to both.

Jurisdiction beyond local limits of Supreme Court.

16. Any person not being a European British subject, who shall beyond the local limits of the jurisdiction of a Court of Judicature established by Royal Charter, commit any of the offences mentioned in sections 10, 11, 12, 13, 14 and 15 of this Act, shall be punishable upon conviction by any Magistrate within whose jurisdiction the offence shall be committed. If any such offence be committed beyond the said local limits by a European British subject, the offender shall be punishable upon conviction before a Court of Judicature established by Royal Charter.

Jurisdiction within local limits of Supreme Court.

17. Any person, whether a European British subject or not, who shall within the local limits of the jurisdiction of a Court of Judicature established by Royal Charter commit any of the offences referred to in the last preceding section, shall be punishable upon conviction before such Court.

Fines how adjudged.

18. Any person, whether a European British subject or not, who shall be guilty of any offence for which, according to the provisions of this Act, he shall be liable to a fine only, shall be punishable for such offence by any Magistrate of police for any of the presidency towns of Calcutta, Madras and Bombay, Magistrate, Joint-Magistrate, or person lawfully exercising the powers of a Magistrate, within whose jurisdiction the offence shall be committed; and any person hereby made punishable by a Magistrate of police, shall be punishable upon summary conviction.

Fines how levied.

19. All fines imposed under the authority of this Act, for offences punishable by fine only, by any police Magistrate, Magistrate, Joint-Magistrate, or person lawfully exercising the powers of a Magistrate, may, in case of non-payment thereof, be levied by distress and sale of the goods and chattels of the offender, by warrant under the hand of any of the above-named officers, and in case any such fine shall not be forthwith paid, any such officer may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to such warrant of distress, unless such party shall give security to the satisfaction of such officer for his appearance at such place and time as shall be appointed for the return of the warrant of distress, and such officer may take such security by way of recognizance or otherwise, and if, upon the return of such warrant, it shall appear that no sufficient distress can

be had whereon to levy such fine, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such officer, by the confession of the party or otherwise, that he has not sufficient goods and chattels whereupon such fine or sum of money could be levied if a warrant of distress were issued, any such officer, by warrant under his hand, may commit the offender to prison, there to be imprisoned only or to be imprisoned and kept to hard labour, according to the discretion of such officer, for any term not exceeding two calendar months where the amount of the fine shall not exceed fifty rupees, and for any term not exceeding four calendar months where the amount shall not exceed one hundred rupees, and for any term not exceeding six calendar months in any other case; the commitment to be determinable in each of the cases aforesaid on payment of the amount.

Imprisonment if no sufficient distress, &c.

20. If any servant of the Government, employed in the Electric Telegraph Department within the dominions of any foreign Prince or State in alliance with the Government of India in which an electric telegraph is established by the Government, shall within the dominions of such Prince or State commit any act hereby prohibited or omit to do any act hereby required to be done by any person similarly employed within the British territories in India, such servant of the Government shall be guilty of an offence, and on conviction thereof shall be punished in the same manner as if such act had been done or omitted within the said last mentioned territories; and every such person may be tried, convicted, and punished either by fine or otherwise, according to the nature of the offence, by any Court or officer duly empowered by the Governor General of India in Council to take cognizance of offences committed in such dominions by servants of the Government, or by any Court or Magistrate or other competent officer in any part of the British territories in India in the same manner as if the offence had been committed in such part of the said territories.

Authority to punish Government servants who commit offences against Act in foreign territory.

21. The word "Magistrate" in this Act shall include Joint-Magistrates and persons lawfully exercising the powers of Magistrates, and the word "fine" shall include a penalty or forfeiture.

Explanation of terms.

22. It shall be lawful for the Governor General in Council to frame rules for the conduct of any electric telegraph established by license under this Act, and to declare from time to time what portions of this Act shall be applicable to such telegraph and to persons using the same, or employed in connexion therewith. It shall also be lawful for the Governor General in Council to declare from time to time that this Act, or such portions thereof as may be specified, shall be applicable to any electric telegraph established or to be established within the British territories in India by any foreign Prince or

Government to frame rules for telegraphs established by license.

And to declare Act applicable to foreign telegraphs within British territories.

State with the consent of the British Government, and to persons using such telegraph or employed in connexion therewith.

ACT No. IX of 1860.

Received the Governor General's assent on the 12th March 1860.

An Act to make provision for the speedy determination of certain disputes between workmen engaged in Railway and other public works and their employers.

Preamble.

Whereas it is expedient to make provision for the speedy determination of certain disputes between workmen engaged in railway and other public works and their employers; It is enacted as follows:—

Government may empower any Magistrate to decide disputes as to wages or price of work.

1. It shall be lawful for the executive Government of any presidency or place within the British territories in India to invest any Magistrate or other officer exercising the powers of a Magistrate with power to enquire into and decide disputes on account of wages, hire of carriage, or the price of work, between any workmen employed in the construction of any railway, canal, or other public work, the construction of which is or shall be sanctioned by Parliament or by any such executive Government, and the person or persons by whom such workmen are employed.

Pecuniary limit of Magistrates's jurisdiction.

2. Magistrates empowered to decide disputes under the preceding section shall have jurisdiction only in case the amount in dispute shall not exceed the sum of two hundred rupees.[a]

Local limits of Magistrate's jurisdiction.

3. The executive Government shall fix, and may from time to time alter, the local limits of the jurisdiction of any Magistrate invested with jurisdiction under section 1 of this Act. A Magistrate so invested may hold a Court for the investigation of disputes of the nature described in the said section, at any place within the local limits of his jurisdiction.

Procedure in investigation of disputes.

4. The rules for the institution of suits as provided in Act VIII of 1859 *(for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter)* shall, as far as circumstances will allow, be followed in the investigation of disputes under the preceding sections, and the procedure adopted shall be that provided for cases in which the suit may be disposed of at the first hearing.

No appeal.

5. There shall be no appeal against any decision passed under this Act.

Order for payment.

6. The Magistrate having heard and decided the case, shall make an order for the payment of such sum of money (if any) as shall appear to him to be

[a] As to the limitation of suits under this Act, see Act No. IX of 1871, Schedule II, No. 4.

justly due: and if the person ordered to pay shall make default in the payment of such sum immediately or within such time as the Magistrate shall direct, the Magistrate shall issue his warrant to levy the money by distress and sale of the goods and chattels of the defaulter. Distress.

7. If any question shall arise whether any goods or chattels seized under the warrant of distress belong to the defaulter, or are liable to be distrained and sold as aforesaid, the same shall be determined in the manner provided by the said Act VIII of 1859 for the determination of the like questions arising in the execution of decrees. Questions as to property distrained.

8. Any person who shall voluntarily engage for a stipulated period to work on any railway, canal, or other public work, the construction of which is or shall be sanctioned in the manner specified in section 1 of this Act, or to execute any specific work in connection with such public work, and who shall wilfully and without lawful or reasonable excuse neglect or refuse to perform the work so stipulated for, shall be liable, on conviction before a Magistrate, to a fine not exceeding twenty rupees. Penalty for workmen neglecting or refusing to work.

The Magistrate may, at the request of the complainant or of any one authorized to act on his behalf, instead of fining such person, order him to perform or get performed the work according to the terms of his contract or engagement; and if he shall fail to comply with the order, the Magistrate may, upon proof to his satisfaction of such non-compliance, sentence such person to be imprisoned with or without hard labour for any term not exceeding two months. Power to order specific performance.

9. This Act shall take effect only in those districts or places to which it shall be extended by order of the Governor General of India in Council, or of the executive Government of any presidency or place.[a] Operation of Act.

ACT No. XXI OF 1860.

Received the Governor General's assent on the 21st May 1860.

An Act for the Registration of Literary, Scientific and Charitable Societies.[b]

WHEREAS it is expedient that provision should be made for improving the legal condition of societies established for the promotion of literature, science, Preamble.

[a] It has been extended to the Panjáb (9th May 1860); to Nadiya, 24-Parganas and Baraset, *Calcutta Gazette*, 1860, p. 1339: to the District of Nimar, *ib*, 1862, p. 2980, and in the Bombay Presidency to the districts of Ahmadnagar, Broach, Ahmadábád, Khándesh, Khaira, Púna, Sholapur, Surat, Tanna, by notifications dated respectively 2nd May 1860, 13th March 1861, 12th Nov. 1861.

[b] Copied (with the exception of the first four sections) from 17 & 18 Vic., c. 112. Declared to apply to the whole of British India, except the Scheduled Districts, Act No. XV of 1871.

or the fine arts, or for the diffusion of useful knowledge, or for charitable purposes; It is enacted as follows:—

Societies formed by memorandum of association and registration.

1. Any seven or more persons associated for any literary, scientific, or charitable purpose, or for any such purpose as is described in section 20 of this Act, may, by subscribing their names to a memorandum of association, and filing the same with the Registrar of Joint Stock Companies,[a] form themselves into a society under this Act.

Memorandum of association.

2. The memorandum of association shall contain the following things, (that is to say)—

the name of the society:

the objects of the society:

the names, addresses, and occupations of the governors, council, directors, committee, or other governing body to whom, by the rules of the society, the management of its affairs is entrusted. A copy of the rules and regulations of the society, certified to be a correct copy by not less than three of the members of the governing body, shall be filed with the memorandum of association.

Registration.

3. Upon such memorandum and certified copy being filed, the registrar shall certify under his hand that the society is registered under this Act.

Fees.

There shall be paid to the registrar for every such registration a fee of fifty rupees, or such smaller fee as the Governor General of India in Council may from time to time direct; and all fees so paid shall be accounted for to Government.

Annual list of managing body to be filed.

4. Once in every year, on or before the fourteenth day succeeding the day on which, according to the rules of the society, the annual general meeting of the society is held, or if the rules do not provide for an annual general meeting, in the month of January, a list shall be filed with the Registrar of Joint Stock Companies, of the names, addresses, and occupations of the governors, council, directors, committee, or other governing body then entrusted with the management of the affairs of the society.

Property of society how vested.

5. The property, moveable and immoveable, belonging to a society registered under this Act, if not vested in trustees, shall be deemed to be vested, for the time being, in the governing body of such society, and in all proceedings, civil and criminal, may be described as the property of the governing body of such society by their proper title.

Suits by and against societies.

6. Every society registered under this Act may sue or be sued in the name of the president, chairman, or principal secretary, or trustees, as shall be determined by the rules and regulations of the society, and in default of such determination, in the name of such person as shall be appointed by the

[a] See Act No. X of 1866, s. 230.

governing body for the occasion; provided that it shall be competent for any person having a claim or demand against the society, to sue the president or chairman, or principal secretary or the trustees thereof, if on application to the governing body some other officer or person be not nominated to be the defendant.

Suits not to abate.

7. No suit or proceeding in any civil Court shall abate or discontinue by reason of the person by or against whom such suit or proceedings shall have been brought or continued, dying or ceasing to fill the character in the name whereof he shall have sued or been sued, but the same suit or proceeding shall be continued in the name of or against the successor of such person.

Enforcement of judgment against society.

8. If a judgment shall be recovered against the person or officer named on behalf of the society, such judgment shall not be put in force against the property, moveable or immoveable, or against the body of such person or officer, but against the property of the society.

The application for execution shall set forth the judgment, the fact of the party against whom it shall have been recovered having sued or having been sued, as the case may be, on behalf of the society only, and shall require to have the judgment enforced against the property of the society.

Recovery of penalty accruing under bye-law.

9. Whenever by any bye-law duly made in accordance with the rules and regulations of the society, or, if the rules do not provide for the making of bye-laws, by any bye-law made at a general meeting of the members of the society convened for the purpose (for the making of which the concurrent votes of three-fifths of the members present at such meeting shall be necessary), any pecuniary penalty is imposed for the breach of any rule or bye-law of the society, such penalty, when accrued, may be recovered in any Court having jurisdiction where the defendant shall reside, or the society shall be situate, as the governing body thereof shall deem expedient.

Members liable to be sued as strangers.

10. Any member who may be in arrear of a subscription which according to the rules of the society he is bound to pay, or who shall possess himself of or detain any property of the society in a manner or for a time contrary to such rules, or shall injure or destroy any property of the society, may be sued for such arrear or for the damage accruing from such detention, injury, or destruction of property in the manner hereinbefore provided.

Recovery by successful defendant of costs adjudged.

But if the defendant shall be successful in any suit or other proceeding brought against him at the instance of the society, and shall be adjudged to recover his costs, he may elect to proceed to recover the same from the officer in whose name the suit shall be brought, or from the society, and in the latter case shall have process against the property of the said society in the manner above described.

Members guilty of offences punishable as strangers.

11. Any member of the society who shall steal, purloin, or embezzle any money or other property, or wilfully and maliciously destroy or injure any property of such society, or shall forge any deed, bond, security for money, receipt or other instrument, whereby the funds of the society may be exposed to loss, shall be subject to the same prosecution, and if convicted, shall be liable to be punished in like manner as any person not a member would be subject and liable to in respect of the like offence.

Societies enabled to alter, extend, or abridge their purposes.

12. Whenever it shall appear to the governing body of any society registered under this Act, which has been established for any particular purpose or purposes, that it is advisable to alter, extend, or abridge such purpose to or for other purposes within the meaning of this Act, or to amalgamate such society either wholly or partially with any other society, such governing body may submit the proposition to the members of the society in a written or printed report, and may convene a special meeting for the consideration thereof according to the regulations of the society;

but no such proposition shall be carried into effect unless such report shall have been delivered or sent by post to every member of the society ten days previous to the special meeting convened by the governing body for the consideration thereof, nor unless such proposition shall have been agreed to by the votes of three-fifths of the members delivered in person or by proxy, and confirmed by the votes of three-fifths of the members present at a second special meeting convened by the governing body at an interval of one month after the former meeting.

Provision for dissolution of societies and adjustment of their affairs.

13. Any number not less than three-fifths of the members of any society may determine that it shall be dissolved, and thereupon it shall be dissolved forthwith, or at the time then agreed upon, and all necessary steps shall be taken for the disposal and settlement of the property of the society, its claims, and liabilities, according to the rules of the said society applicable thereto, if any, and, if not, then as the governing body shall find expedient, provided that, in the event of any dispute arising among the said governing body or the members of the society, the adjustment of its affairs shall be referred to the principal Court of original civil jurisdiction of the district in which the chief building of the society is situate; and the Court shall make such order in the matter as it shall deem requisite.

Assent required.

Provided that no society shall be dissolved unless three-fifths of the members shall have expressed a wish for such dissolution by their votes delivered in person, or by proxy, at a general meeting convened for the purpose.

Government consent.

Provided that whenever the Government is a member of, or a contributor to, or otherwise interested in, any society registered under this Act, such society shall not be dissolved without the consent of Government.

14. If upon the dissolution of any society registered under this Act there shall remain, after the satisfaction of all its debts and liabilities, any property whatsoever, the same shall not be paid to or distributed among the members of the said society or any of them, but shall be given to some other society, to be determined by the votes of not less than three-fifths of the members present personally or by proxy at the time of the dissolution, or in default thereof, by such Court as aforesaid; provided however that this clause shall not apply to any society which shall have been founded or established by the contributions of shareholders in the nature of a Joint Stock Company.

Upon a dissolution no member to receive profit.

Clause not to apply to Joint Stock Companies.

15. For the purposes of this Act a member of a society shall be a person who having been admitted therein according to the rules and regulations thereof, shall have paid a subscription, or shall have signed the roll or list of members thereof, and shall not have resigned in accordance with such rules and regulations; but in all proceedings under this Act no person shall be entitled to vote or be counted as a member whose subscription at the time shall have been in arrear for a period exceeding three months.

Member defined.

Disqualified members.

16. The governing body of the society shall be the governors, council, directors, committee, trustees, or other body to whom by the rules and regulations of the society the management of its affairs is entrusted.

Governing body defined.

17. Any company or society established for a literary, scientific or charitable purpose and registered under Act XLIII of 1850, or any such society established and constituted previously to the passing of this Act but not registered under the said Act XLIII of 1850, may at any time hereafter be registered as a society under this Act; subject to the proviso that no such company or society shall be registered under this Act unless an assent to its being so registered has been given by three-fifths of the members present personally, or by proxy, at some general meeting convened for that purpose by the governing body.

Registration of societies formed before Act.

Assent required.

In the case of a company or society registered under Act XLIII of 1850, the directors shall be deemed to be such governing body.

In the case of a society not so registered, if no such body shall have been constituted on the establishment of the society, it shall be competent for the members thereof, upon due notice, to create for itself a governing body to act for the society thenceforth.

18. In order to any such society as is mentioned in the last preceding section obtaining registry under this Act, it shall be sufficient that the governing body file with the Registrar of Joint Stock Companies,[a] a memorandum showing the name of the society, the objects of the society, and the names,

Such societies to file memorandum, &c., with Registrar of Joint-Stock Companies.

[a] See Act No. X of 1866, section 230.

addresses, and occupations of the governing body, together with a copy of the rules and regulations of the society certified as provided in section 2, and a copy of the report of the proceedings of the general meeting at which the registration was resolved on.

Inspection of documents.

19. Any person may inspect all documents filed with the registrar under this Act on payment of a fee of one rupee for each inspection; and any person may require a copy or extract of any document or any part of any document, to be certified by the registrar, on payment of two annas for every hundred words of such copy or extract; and such certified copy shall be *primâ facie* evidence of the matters therein contained in all legal proceedings whatever.

Certified copies.

To what societies Act applies.

20. The following societies may be registered under this Act :—charitable societies, the military orphan funds or societies established at the several presidencies of India, societies established for the promotion of science, literature, or the fine arts, for instruction, the diffusion of useful knowledge, the foundation or maintenance of libraries or reading-rooms for general use among the members or open to the public, or public museums and galleries of paintings and other works of art, collections of natural history, mechanical and philosophical inventions, instruments, or designs.

ACT No. XXVII OF 1860.

Received the Governor General's assent on the 25th June 1860.

An Act for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons.[a]

Preamble.

WHEREAS it is expedient to consolidate and amend certain Acts now in force which provide greater security for persons paying to the representatives of deceased Hindús, Muhammadans, and others not usually designated as British subjects, debts which are payable in respect of the estates of such deceased persons, and which facilitate the collection of such debts by removing all doubts as to the legal title to demand and receive the same; It is enacted as follows :—

1. [*Repealed by Act No. XVI of* 1874.]

[a] Repealed, except as to Hindús, Muhammadans and Buddhists and persons exempted by section 332 of the Indian Succession Act, 1865, from the operation of that Act, by Act No. XXIV of 1867. (As to Native Christians, see 7 Mad. 121). Declared to apply (so far as unrepealed) to the whole of British India, except the Scheduled Districts, Act No. XV of 1874. As to the court-fee on certificates under Act No. XXVII of 1860, see Act No. VII of 1870, sched. I, No. 12. As to transfer of applications for certificates, see Act No. VI of 1871, s. 27.

2. No debtor of any deceased person shall be compelled in any Court to pay his debt to any person claiming to be entitled to the effects of any deceased person or any part thereof, except on the production of a certificate to be obtained in manner hereinafter mentioned or of a probate or letters of administration, unless the Court shall be of opinion that payment of the debt is withheld from fraudulent or vexatious motives and not from any reasonable doubt as to the party entitled.[a]

No debt recoverable without certificate.

3. The district Court within the jurisdiction of which the deceased shall have ordinarily resided at the time of his death, or if at that time he had no fixed place of residence then within the jurisdiction of which any part of the property of the deceased may be found, shall have authority to grant a certificate[b] under this Act.

Certificate how obtained.

The applicant in his petition shall set forth his title.

The Court shall issue notice of application, inviting claimants, and fixing a day for hearing the petition, and upon the appointed day or as soon after as may be convenient, shall determine the right to the certificate[c] and grant the same accordingly.

4. The certificate of the district Court shall be conclusive of the representative title against all debtors to the deceased,[d] and shall afford full indemnity to all debtors paying their debts to the person in whose favour the certificate has been granted.

Effect of certificate.

5. The Court may[e] take such security as it shall think necessary from any person to whom it shall grant a certificate for rendering an account of debts received by him, and for indemnity of persons who may be entitled to the whole or any part of the monies received by virtue of such certificate, whose right to recover the same by regular suit against the holder of the certificate is not affected by this Act.

Court may take security from grantee of certificate.

6. The granting of such certificate may be suspended by an appeal to the Sadr Court, which Court may declare the party to whom the certificate should be granted, or may direct such further proceedings for the investigation of the title as it shall think fit.

Powers of Sadr Court on appeal.

The Court may also, upon petition, after a certificate shall have been granted by the district Court, grant a fresh certificate in supersession of the certificate granted by the district Court.

And to supersede certificate of district Court.

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[a] See 8 Bomb., A. C. J., 152: 6 Mad. 131.

[b] A certificate cannot be granted for the collection of a fraction of the debts of the deceased, 1 Beng., Short Notes, vii: 3 Beng. 405.

[c] As to the discretion of the Court when there are rival claimants, 4 Beng., A. C. J., 149, and see 2 Bomb. 398.

[d] But only against such debtors, 2 Madras 165.

[e] This is discretionary, 7 Bomb., App. xxvi.

Effect of fresh certificate.

Such fresh certificate shall not affect any payments made to the person to whom any former certificate may have been granted, without notice that the same has been superseded, but shall entitle the person named therein to receive all monies that may have been recovered under the first certificate from the person to whom the same may have been granted.[a]

Local extent of power given by certificate.

7. Every certificate shall give authority to the person to whom the same is granted throughout the presidency within which the same is granted, and no certificate subsequently granted in respect of the same property shall be valid or effectual, except as hereinafter mentioned.

Powers under certificate as to Government securities, bank and other shares.

8. If the estate of the deceased shall include any Government securities or bank-shares, or any shares in any public company, the certificate may empower the person certified as aforesaid to receive interest or dividends thereon, or on any of them, or to negotiate the same or any of them;

in such case the certificate shall describe the securities and shares in respect of which such powers are given, and such powers shall not be vested by the certificate except by express words.

Appointment of trustee for securities in case of dispute among joint claimants.

9. In the case of disputes among persons claiming to be jointly entitled to be proprietors of any Government securities as the representatives of any deceased person, the district Court, whenever sufficient cause shall be shown, and on the request of any such claimant, may, so far as concerns the said securities, grant a certificate under this Act to such person as shall be from time to time appointed by the Local Government to act as trustee under this section, and shall specify in such certificate the several persons appearing to him to be such proprietors and their several shares;

His powers and duties.

and the said trustee by virtue of such certificate shall be entitled to receive and give discharges for the interest accruing due on such securities, and shall account for and pay the sum to the several persons specified in the certificate to be thereunto entitled, according to the shares therein set forth, and shall be empowered to act in all other respects concerning the said securities as agent for such persons, and shall be entitled to receive such commission, not exceeding one per centum, on the sums received and paid by him, as the Local Government shall think fit.

Commission.

Saving of right of other person.

Provided nevertheless that the right of any other person to recover the whole or any part of the monies so paid by regular suit against all or any of the persons to whom the same have been paid, shall not be affected by this Act.

Appropriation if dispute not settled within two years.

10. If any such disputes among persons claiming to be proprietors of Government securities are not ended within two years from the date of the

[a] As to recalling certificates granted without jurisdiction or obtained by fraud, see 6 Beng., App. 128; 8 Beng., App. 13. As to limitation of suits to set aside grants, see Act No. IX of 1871, schedule II, No. 15 and Marshall 574.

certificate granted under the last preceding section, the said trustee may apportion the principal sum of the said securities rateably among the parties appearing from the certificate to be proprietors thereof, and may apply for and receive new securities from the proper officer appointed to issue the same in the respective names of the several parties certified to be entitled thereto;

provided that such new securities shall be issued only according to the rules in use for the regulation and issue of such Government securities, and the receipt of the said trustee for such new securities, by endorsement on the old securities or otherwise, shall be a legal discharge to the Government against the disputing parties claiming to be entitled to the several amounts for which such securities shall be issued.

Issue of new securities to trustee.

Provided always that, if the amount of any Government securities in dispute or any part thereof shall not be sufficient to admit of their rateable division according to the rules applicable to the issue of such securities, the said trustee may sell and dispose of the disputed securities, or such part as shall be necessary under this provision, and apportion the proceeds thereof among the parties entitled to receive the same.

Apportionment where amount of securities in dispute not rateably divisible.

11. Every certificate granted to the trustee appointed under section 9, shall be taken to supersede and annul any previous certificate so far as such previous certificate relates to the said Government securities.

Effect of certificate granted to trustee.

12. When a certificate shall have been granted, in cases in which such certificate would be valid but for the previous grant of a certificate, all payments made to the person holding the latter certificate in ignorance of the grant of the previous certificate, shall be held good against claims under such previous certificate.

Payments under later, made in ignorance of prior certificate.

13. With regard to the property of a deceased Hindú, Muhammadan, or other person not usually designated by the term "British subject," no certificate in respect of any such property shall be valid if made after a probate or letters of administration granted in respect of the same, provided assets belonging to the deceased were at the time of his death within the local jurisdiction of the Court granting the probate or letters of administration.

In case of Hindús, &c., certificate issued after grant of probate when void.

14. Where a certificate shall have been granted, in cases in which such certificate would be valid but for a probate or letters of administration previously granted, all payments made to the person holding the certificate in ignorance of the previous granting of the probate or letters of administration, shall be held good against claims under the probate or letters of administration so previously granted.

Payments under certificate made in ignorance of prior grant of probate.

15. No probate or letters of administration shall be valid for the purpose of the recovery of debts, or for the security of debtors, after a certificate

Probate or letters void

after grant of certificate.

Proviso.

granted in respect of the same property for which such probate or letters of administration shall have been granted, provided assets belonging to the deceased were at the time of his death within the jurisdiction of the Court granting such certificate.

Payments under probate made in ignorance of prior grant of certificate.

16. Where probate or letters of administration may have been granted in cases in which such probate or letters of administration would be valid but for the previous grant of a certificate, all payments made in ignorance of the previous grant of the certificate, shall be held good against claims under such previous certificate.

Curators prohibited from exercising certain powers.

17. Curators appointed under Act XIX of 1841 who may be invested with certain powers which are conferred on persons obtaining certificates under this Act, shall not exercise any powers which, but for that Act, would lawfully belong to persons obtaining certificates, or to executors or administrators where a certificate, probate, or letters of administration has been actually obtained; but all persons who may have paid debts or rents to a curator authorized by a Court to receive the same, shall be indemnified, and the curator shall be responsible for the payment of the same to the person who has obtained a certificate, the executor or administrator as the case may be.

Payments to authorized curator.

Effect of probates and letters the same as if granted to representatives of British subjects.

18. All probates and letters of administration granted by any Supreme Court of Judicature in cases in which any assets belonging to deceased persons were at the time of their deaths within the local jurisdiction of the Court granting the probate or letters of administration, shall have the effect of probate and letters of administration granted in respect of the property of British subjects, but for the purpose of the recovery of debts only and the security of debtors paying the same, except so far as is in this Act provided.

Effect of certificates granted by British representatives in foreign States.

19. A certificate of administration granted by the British representative accredited to any foreign Prince or State shall, as regards the residents within the territories of such Prince or State, have the same effect in respect to Government securities as a certificate granted to a native subject of Her Majesty under the provisions hereinbefore contained.

Local extent of power given by such certificates.

20. Every certificate of administration granted under the last preceding section shall, as regards the Government securities, give authority to the person to whom the same shall be granted throughout the British territories in India, and have the same effect throughout the said territories as a certificate granted under section 7 of this Act has within the presidency within which the same is granted.

Extension of certificate.

21. Any Court or officer authorized to grant a certificate may from time to time extend the same to any Government security or bank-share not ori-

ginally specified therein, and every such extension shall have the same effect as if the Government security or bank-share to which the certificate shall be extended had been originally specified therein.

22. Upon the extension of a certificate, security may be required in the same manner as upon the original grant of a certificate. Security upon extension.

23. Nothing in this Act contained shall be held to extend to the property of any person usually designated as a British subject. Act not to apply to British subjects.

24. The following words and expressions in this Act shall have the meaning hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that is to say)— Interpretation-clause.

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number: Number.

Words importing the masculine gender shall include females: Gender.

The words "District Court" shall mean the principal civil Court of original jurisdiction of a zila or district: "District Court."

The words "Sadr Court" shall be deemed to include the highest civil Court of appeal in any part of the British territories in India not subject to the control and superintendence of a Sadr Court. "Sadr Court."

ACT No. XXXI OF 1860.[a]

Received the Governor General's assent on the 17*th July* 1860.

An Act relating to the manufacture, importation, and sale of Arms and Ammunition, and for regulating the right to keep and use the same, and to give power of disarming in certain cases.

WHEREAS it is expedient to regulate the manufacture, importation, and sale of arms and ammunition and the right to keep and use the same, and also to give power of disarming districts and places in certain cases; It is enacted as follows:— Preamble.

1. [*Repealed by Act No. XIV of* 1870.]

2. No person in India,[b] unless authorized by Government, shall manufacture or assist in manufacturing any cannon, howitzer or mortar; and whoever not being so authorized shall manufacture or assist in manufacturing any cannon, howitzer or mortar, shall be liable to a fine not exceeding one thousand Manufacture of cannon, &c., without authority of Government.

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[a] Continued by Act No. VI of 1866.

[b] See sec 54, *infra*.

Penalty

rupees, and to imprisonment with or without hard labour for a period not exceeding three years.

Penalty for possession of cannon, &c., without permission.

3. If any person in India[a] shall, without the permission of the Local Government, have in his possession any cannon, howitzer or mortar, except in the course of his duty as a public officer of Government, he shall be liable to a fine not exceeding five hundred rupees for every such cannon, howitzer or mortar, and in default of payment thereof may be imprisoned with or without hard labour for a period not exceeding one year.

Exception.

The provisions of this section shall not extend to any cannon, howitzer or mortar, forming part of the ordinary armament of any ship or vessel.

Permission to possess cannon.

4. Whenever the Local Government shall permit any person to possess any cannon, howitzer or mortar, such permission shall be in writing and signed by the secretary to the Government, and shall specify the number of cannon, howitzers or mortars permitted to be possessed by such person.

A fee of fifty rupees shall be paid on the delivery of such written permission.

Manufacturing or dealing in arms and ammunition without license prohibited.

5. No person shall manufacture, repair, or sell, or keep or expose for sale, any arms of the description hereinafter mentioned, or shall manufacture or sell, or keep or expose for sale, percussion-caps, sulphur, gunpowder or other ammunition, except under a license to manufacture or deal in arms or percussion-caps, sulphur, gunpowder or other ammunition, as the case may be,

and any person who shall manufacture, repair, sell, or keep or expose for sale, any of such arms, or any percussion-caps, sulphur, gunpowder or other ammunition without such license as aforesaid, or contrary to any of the conditions contained in such license, shall be liable to a fine[b] not exceeding five hundred rupees, or to imprisonment with or without hard labour for a period not exceeding two years, or to both fine and imprisonment,

Penalty.

and all arms, percussion-caps, sulphur, gunpowder or other ammunition belonging to the offender shall be forfeited if the Court or officer before whom the offender is convicted shall so adjudge.

Arms referred to in section 5.

6. The following are the arms referred to in section 5, namely, fire-arms, bayonet, sword, dagger, spear and spear-head.

Licenses by whom to be granted.

7. Licenses to manufacture or deal in arms, percussion-caps, sulphur, gunpowder or other ammunition may be granted by a Magistrate, or by an officer authorized by the Governor General of India in Council or by the executive Government to grant such licenses.

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[a] See sec. 54, *infra*.
[b] 5 Mad., Rulings, XXIV.

8. Licenses granted under the last preceding section shall be in the form prescribed by the Governor General of India in Council, and shall be engrossed on a stamp-paper of the value of ten rupees. The stamp-paper shall be furnished by the person applying for the license. Form, &c., of license.

A separate license shall be taken out for the sale of sulphur. Sulphur license.

9. Every person to whom such license shall be granted shall affix a board in a conspicuous part of his shop or usual place of business, and shall cause to be painted thereon in large letters in the vernacular of the district the words "Licensed to manufacture or deal in arms or percussion-caps, sulphur, gunpowder or other ammunition," as the case may be. Licensee to affix board in conspicuous part of his shop.

10. If any person to whom such license shall be granted shall omit to put up a board inscribed as above in a conspicuous part of his shop or usual place of business, he shall be liable to a fine not exceeding one hundred rupees. Penalty for omission.

11. If any person to whom such license shall not have been granted in the manner prescribed shall put up such board as aforesaid in his shop or usual place of business, he shall be liable to a fine not exceeding one hundred rupees. Penalty for putting up board without license.

12. Licenses granted under section 7 of this Act shall be in force for one year from the date thereof. Duration of license.

13. Any person knowingly purchasing arms of the description mentioned in section 6, or any percussion-caps, sulphur, gunpowder or other ammunition from any person not licensed, shall be liable to a fine not exceeding one hundred rupees. Penalty for purchasing from unlicensed person.

14. Every person licensed to manufacture or deal in arms, percussion-caps, sulphur, gunpowder or other ammunition, shall enter in a book to be kept by him for that purpose, an account of all the stock-in-trade which he may from time to time have in his possession or under his control, and also the name and address of every purchaser of arms, percussion-caps, sulphur, gunpowder or other ammunition sold by him, together with the nature, description, and quantity of such arms, percussion-caps, sulphur, gunpowder or other ammunition. Licensed manufacturers or dealers to enter in a book an account of stock-in-trade, names of purchasers, &c.

Such book shall be open at all times to inspection by the Magistrate or other officer duly authorized by Government in that behalf, by whom copies may be taken of all entries therein contained. Inspection of book.

If any such person shall omit or fail duly to keep such book, or to make therein all such entries as are hereby required, or if any person shall prevent or obstruct the inspection of such book or shall make a false entry therein, he shall be liable for every such offence to a fine not exceeding five hundred rupees, in addition to double the value of any arms, percussion-caps, sulphur, gunpowder or other ammunition sold of which he shall fail to make such entry or respecting

which he shall make a false entry; and if the offender be licensed to manufacture or deal in arms, percussion-caps, sulphur, gunpowder or other ammunition, he shall also forfeit his license if the Magistrate shall so adjudge.

Magistrate or other officer may inspect dealers' premises.

15. The Magistrate or other officer authorized by Government as aforesaid may at any time enter the premises in which arms, percussion-caps, sulphur, gunpowder or other ammunition shall be manufactured or kept by any licensed manufacturer or dealer in arms or percussion-caps, sulphur, gunpowder or other ammunition, in order to inspect the stock-in-trade of such manufacturer or dealer,

and if any such manufacturer or dealer shall intentionally conceal from such Magistrate or other officer as aforesaid any part of his stock-in-trade, or shall wilfully refuse to point out where the same is kept, he shall be liable to a fine not exceeding five hundred rupees, or to imprisonment with or without hard labour for a period not exceeding two years, or to both fine and imprisonment, and any arms, percussion-caps, sulphur, gunpowder or other ammunition belonging to such person may be seized and shall be confiscated if the Magistrate shall so adjudge.

Revocation of license to manufacture or deal in arms or ammunition.

16. Any license granted under the provisions of section 7 may be granted subject to such conditions as shall be thought necessary, and may be revoked or suspended by the officer authorized to grant such licenses whenever he may think fit.

Cannon and arms and ammunition not to be imported without license.

17. No cannon, howitzer or mortar, and no arms, percussion-caps, sulphur, saltpetre, gunpowder or other ammunition, shall be imported either by sea or by land into any part of the territories in the possession and under the Government of India except under a license from the Governor General of India in Council or from some officer authorized in that behalf by the Governor General of India in Council.

Penalty for importation without license.

18. If any person shall import or attempt to import without such license either by sea or by land into any part of the said territories, any cannon, howitzer or mortar, or any arms, percussion-caps, sulphur, saltpetre, gunpowder or other ammunition, or shall aid or assist in such importation or in such attempt to import, or shall knowingly conceal or assist in concealing any cannon, howitzer or mortar, or any arms, percussion-caps, sulphur, saltpetre, gunpowder or other ammunition, imported without such license, he shall be liable to imprisonment with or without hard labour for any term not exceeding three years, and also to a fine not exceeding one thousand rupees, and the articles so imported shall be confiscated if the Magistrate shall so adjudge.

Importation of arms and am-

19. The provisions of the last two preceding sections shall not extend to arms, percussion-caps, gunpowder and other ammunition imported by any

person in reasonable quantities for his own private use; but the Collector of Customs may at any time detain any such articles, if he shall think it necessary, until he shall receive the orders of Government.

munition for private use.

20. The Governor General of India in Council or the Local Government may at any time seize all sulphur in the possession of any person, and detain the same for such time as they may deem necessary for the public safety.

Seizure and detention of sulphur by Government.

21. Nothing in this Act shall apply to sulphur kept or sold in reasonable quantities for medicinal purposes.

Exception.

22. The Governor General of India in Council may by order prohibit the transport of any arms, military stores, lead, sulphur, saltpetre, gunpowder or other ammunition, or any particular description of arms, ammunition or military stores from one part of India[a] to another, or the transport thereof in any particular direction to be specified in the order, or prohibit the transport thereof except according to such rules and conditions as may be specified in the order,

Government may prohibit transport of arms, ammunition, military stores, &c.

and the Local Government of any presidency or place shall have the like power within the territories under its government.

23. If any person shall transport or cause to be transported or shall attempt to transport or cause to be transported, or shall aid in transporting any arms, military stores, lead, sulphur, saltpetre, gunpowder or other ammunition, contrary to such order, or to the rules and conditions specified therein, he shall be liable to a fine not exceeding five hundred rupees, or to imprisonment with or without hard labour for a period not exceeding three years, or to both fine and imprisonment, and the articles transported or attempted to be transported shall be confiscated.

Penalty for prohibited transport.

If any person shall by concealment or other device transport or cause to be transported, or attempt to transport or cause to be transported, such arms, military stores, lead, surphur, saltpetre, gunpowder or other ammunition, he shall, in addition to the fine hereby provided, be liable, upon conviction, to imprisonment with or without hard labour for a term not exceeding seven years.

24. Nothing in the last two preceding sections shall extend to arms, percussion-caps, gunpowder and other ammunition transported by any person in reasonable quantities for his own private use in any district or place not ordered or liable to be disarmed under section 32 of this Act.

Exemption from sections 22, 23.

25. If any person shall be found carrying or conveying any arms, military stores, percussion-caps, sulphur, gunpowder or other ammunition, in such a manner or under such circumstances as to afford just grounds of suspicion that the same are being carried by such person with intent to use the same, or

Persons conveying arms, ammunition, &c., under suspicious circumstances

[a] See sec 54, *infra*

may be apprehended without warrant.

that the same may be used for any unlawful purpose dangerous to the public peace, it shall be lawful for any person to apprehend without warrant the person so carrying or conveying such arms, military stores, percussion-caps, sulphur, gunpowder or other ammunition, and to detain such person in custody in order that he may be dealt with according to law.

Procedure if apprehended by other than Magistrates, &c.

If any person be apprehended by a person not being a Magistrate, Deputy Magistrate, or assistant to a Magistrate, or police officer, he shall be delivered over as soon as possible to a police officer; and all persons apprehended by or delivered to a police officer under the provisions of this section shall be carried before a Magistrate or other officer competent by law to punish him for the offence or to commit him for trial.

Penalty for going armed or carrying arms without license.

26.[a] If any person shall go armed with or carry any arms of the description mentioned in section 6 of this Act without having obtained a license from a Magistrate or other officer authorized by the Governor General of India in Council or the Local Government authorizing him to carry arms, he shall be liable to be disarmed by any Magistrate, Joint Magistrate or Deputy Magistrate, or assistant to a Magistrate, or by a police officer, if in the judgment of such Magistrate or other officer as aforesaid it is dangerous to the public peace to allow such person to go armed or to carry arms.

Exemption of—

27. The provisions of the last two sections do not apply to—

officers, soldiers, and sailors;

officers, non-commissioned officers, warrant officers, soldiers, and sailors in the military or naval service of Her Majesty, in respect of arms and ammunition kept by them for use in the public service;

volunteers;

members of volunteer corps in respect of such arms and ammunition;

police and revenue officers;

police and revenue officers and other persons, in respect of arms and ammunition furnished by Government for use in the public service or provided by themselves with the sanction of Government for such use;

other persons and districts.

such other persons, [b] classes of persons, districts or parts of districts as the Local Government may by notification in the official Gazette from time to time exempt from such provisions.

Grant and revocation or suspension of licenses to carry arms.

28. Licenses to carry arms may be granted by any Magistrate or other officer specially authorized by the Governor General of India in Council or the Local Government to grant such licenses, and may be revoked or suspended by any officer authorized to grant such license whenever he may think fit.

Form of license.

29. The license shall be in the form prescribed by the Governor General of India in Council.

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[a] As to sections 26, 28, 29 & 30, see Act No. VI of 1866, section 2.
[b] See Act No. VI of 1866, section 3.

30. The license shall state whether its operation is limited to the person in whose favour it is granted and whom it shall mention by name, or whether it extends to any of his followers. In the latter case the number of the followers of such person licensed to carry arms and the number and description of arms to be carried by each of such followers shall be specified.

What to be stated in license.

31. Whenever a Magistrate shall have reason to believe that any person residing within the limits of his jurisdiction has in his possession any arms of the description mentioned in section 6 of this Act, or percussion-caps, sulphur, gunpowder or other ammunition for any unlawful purpose, or that such person cannot in the judgment of the Magistrate be left in the possession of any such arms, percussion-caps, sulphur, gunpowder or other ammunition without danger to the public peace, it shall be lawful for such Magistrate, having first recorded the grounds of his belief, to cause a search to be made of the house or premises occupied by such person or on which the Magistrate may have reason to believe such arms, percussion-caps, sulphur, gunpowder or other ammunition are to be found, and to seize and to detain the same in safe custody for such time as he may deem necessary.

Search and seizure of arms and ammunition in certain cases.

The search in such case shall be conducted by or in the presence of the Magistrate or by or in the presence of a Joint or Deputy Magistrate, or a European assistant, or by or in the presence of some European officer, civil or military, to be specially empowered by Government.

32. *Clause* 1. It shall be lawful for the Governor General of India in Council or for the executive Government of any presidency or for any Lieutenant Governor, or with the sanction of the Governor General in Council for the Chief Commissioner or Commissioner of any province, district or place subject to their administration respectively, whenever it shall appear necessary for the public safety, to order that any province, district or place shall be disarmed.

Executive Government may order any district or place to be disarmed.

Clause 2. In every such province, district or place as well as in any province, district or place in which an order for a general search for arms has been issued and is still in operation under Act XXVIII of 1857,[a] it shall not be lawful for any person to have in his possession any arms of the description mentioned in section 6 of this Act, or any percussion-caps, sulphur, gunpowder or other ammunition without a license.

Possession of arms and ammunition without license prohibited.

Clause 3. Licenses to have in possession any arms of the description mentioned in section 6, or percussion-caps, sulphur, gunpowder or other ammunition may be granted by any Magistrate or other officer specially authorized by the Governor General of India in Council or the Local Govern-

Grant of licenses, &c.

[a] Repealed by Act No. VIII of 1868.

ment to grant such licenses, and may be revoked or suspended by any officer authorized to grant such licenses, whenever he may think fit. The license shall be in the form prescribed by the Governor General of India in Council or by the Local Government.

License to travellers to carry arms.

Clause 4. If any person shall have a license from the Magistrate of the district or place at which he resides, or may be, to carry on a journey such arms as the Magistrate may consider reasonable for his private use, and shall obtain from such Magistrate a license stating the name and address of such person, the route by which he intends to proceed, the time which such journey is expected to occupy, and the arms which he is permitted to carry, such license shall have the same force and effect, according to its tenor, in every district or place specified therein, as if leave to go armed had been granted by the Magistrate of such district or place.

Publication of order for disarming.

Clause 5. In every province, district or place which shall be ordered to be disarmed, the order of the Governor General of India in Council or of the Local Government shall be published in the *Calcutta Gazette* or in the Gazette in which the orders of the Governor General of India in Council or of the Local Government making the order, as the case may be, are usually published, and shall also be made public in such other manner as the Governor General of India in Council or the Local Government shall direct.

Penalty.

Clause 6. Every person who, after the expiration of the time mentioned in such order in any province, district or place to which this section shall be extended, or who after the first day of October 1860 in any province, district, or place in which an order for a general search for arms has been issued and is still in operation as aforesaid, shall have in his possession or custody any such arms as aforesaid, or any percussion-caps, sulphur, gunpowder or other ammunition without such license as aforesaid, shall be liable to be imprisoned with or without hard labour for a term not exceeding two years, and also to a fine not exceeding one thousand rupees, and it shall be lawful for the Magistrate or other officer mentioned in the order to search or cause to be searched any house or premises occupied by such person, or in which the Magistrate may have reason to believe that any such arms, percussion-caps, sulphur, gunpowder or other ammunition are concealed.

Search.

Clause 7. The search shall be conducted by or in the presence of the Magistrate or by or in the presence of a Joint or Deputy Magistrate or European assistant, or by or in the presence of some European officer, civil or military, appointed by Government to conduct such searches; and all such arms, percussion-caps, sulphur, gunpowder and other ammunition found on such search shall be confiscated.

Clause 8. The provisions of this section shall not extend to any person or persons exempted by the authority of the Governor General of India in Council or of the Local Government of the proclaimed district, or by any European officer serving in such district duly authorized by the Local Government on that behalf. Exemptions.

33. If on any such search being made under the provisions of either of the last two sections, any person having in his possession or power any such arms, percussion-caps, sulphur, gunpowder or other ammunition, or knowing where such arms, percussion-caps, sulphur, gunpowder or other ammunition are concealed, shall refuse to produce or point out the same to the officer making the search, or if any person shall intentionally conceal or attempt to conceal any such arms, percussion-caps, sulphur, gunpowder or other ammunition, such person may be apprehended without warrant, and shall be liable to imprisonment with or without hard labour for a term not exceeding two years, and also to a fine not exceeding one thousand rupees. Penalty for refusing to produce or for concealing arms, &c., searched for.

34. Whoever assaults or resists, or aids or assists any person in assaulting or resisting any person, in the execution of any power vested in him by this Act, shall be liable to a fine not exceeding two hundred rupees, or to imprisonment with or without hard labour for any term not exceeding six calendar months, or to both fine and imprisonment. Penalty for assaulting or resisting person in execution of power vested by Act.

35. Except as otherwise provided, all offences under this Act may be tried by any Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate, unless the period of imprisonment to which the offender may be liable exceed that which the Magistrate, Joint Magistrate, or other officer as aforesaid is competent to award under the laws for the time being in force in the presidency or place in which such Magistrate, Joint Magistrate, or other officer as aforesaid is employed. Cognizance of offences.

When the period of imprisonment provided by this Act exceeds the period that may be awarded by such Magistrate, Joint Magistrate, or other officer as aforesaid, the offender shall be committed for trial before the Sessions Judge, if the evidence given before such Magistrate, Joint Magistrate, or other officer as aforesaid shall appear to such Magistrate, Joint Magistrate, or other officer sufficient for the conviction of the accused.

36. Except as aforesaid, all offences declared to be punishable under this Act with fine, or fine and imprisonment, may be tried in the district or place in which the offence was committed, or in which the person charged with the same is apprehended. District in which certain offences shall be tried.

37, 38, 39. [*Repealed by Act No. XVI of* 1874.]

Jurisdiction over British subjects committing offences outside presidency towns.

40. If any offence which by this Act is declared to be punishable with fine and imprisonment, or imprisonment only, shall be committed by a European British subject beyond the local limits of the jurisdiction of Her Majesty's Supreme Courts of Judicature, the offender shall be liable, upon conviction before one of the said Supreme Courts of Judicature, to the punishment to which by this Act the offender is declared to be liable upon conviction.

Summary jurisdiction as to offences committed in presidency towns.

41. If any offence which by this Act is declared to be punishable with fine, or with fine and imprisonment not exceeding six months, shall be committed by any person within the local limits of the jurisdiction of any Court of Judicature established by Royal Charter, such offence shall be punishable upon summary conviction by any Police Magistrate of the presidency town in which such Court is held.

Conviction quashed on merits only.

42. No conviction, order, or judgment under the last preceding section shall be quashed for error of form or procedure, but only on the merits; and it shall not be necessary to state on the face of the conviction, order, or judgment the evidence on which it proceeds, but the depositions taken, or a copy of them, shall be returned with the conviction, order, or judgment in obedience to any writ of *certiorari*, and if no jurisdiction appears on the face of the conviction, order or judgment, but the depositions taken supply that defect, the conviction, order, or judgment shall be aided by what so appears in such depositions.

Other offences within local limits punishable by Charter Court.

43. All other offences punishable under this Act which shall be committed within the local limits of any Court of Judicature established by Royal Charter, shall be punishable by such Court.

Levy of forfeiture and penalties by distress.

44. All forfeitures or penalties imposed under the authority of this Act for offences punishable by any Magistrate of police, or by any Magistrate, or person lawfully exercising the powers of a Magistrate, or Assistant Magistrate, may, in case of non-payment thereof, be levied by distress and sale of the goods and chattels of the offender by warrant under the hand of any of the above-named officers.

Procedure until return is made to warrant of distress.

45. In case any such forfeitures or penalties shall not be forthwith paid, any such officer may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of such officer for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

Imprisonment, if distress not sufficient.

46. If upon the return of such warrant it shall appear that no sufficient distress can be had whereon to levy such fine, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such officer, by the confession of the offender or otherwise, that he has not sufficient goods and

chattels whereupon such fine or sum of money could be levied if a warrant of distress were issued, any such officer may, by warrant under his hand, commit the offender, provided he is not a European British subject, to prison, there to be imprisoned, according to the discretion of such officer, for any term not exceeding two calendar months when the amount of fine shall not exceed fifty rupees, and for any term not exceeding four calendar months when the amount shall not exceed one hundred rupees, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount.

Levy of fines from European British subjects.

47. If the offender shall be a European British subject, the Magistrate shall record the facts and transmit such record to the district Court of the district wherein the offender is convicted, and the amount of the fine and costs (if any) shall be levied in the manner provided for the execution of decrees of the civil Court.

Rewards to informers.

48. Any fine or penalty levied from any person convicted of an offence under this Act, or any portion of such fine or penalty, may be awarded to the person on whose information the conviction shall take place.

Notice and limitation of proceedings.

49[a]**.** No suit, action, or other proceeding shall be commenced or prosecuted against any person for anything done in pursuance of this Act without giving to such person a month's previous notice in writing of the intended action and of the cause thereof, nor after the expiration of three months from the accrual of the cause of action or other proceeding.

Parts of district may be withdrawn from operation of Act and again made subject to it.

50. It shall be lawful for the Governor General of India in Council, or for the executive Government of any presidency, or for any Lieutenant Governor, or with the sanction of the Governor General of India in Council for any Chief Commissioner of any province from time to time to withdraw from the operation of all or any of the provisions of this Act, any part or parts of any district or place; and in like manner, as occasion shall require, to subject the same again to the operation of all or any of the provisions of this Act.

Saving of law relating to licenses.

51. Nothing in this Act shall be construed to alter or affect the provisions of any law or other Regulation for the time being in force relating to licenses.

52. [*Repealed by Act No. XIV of* 1870.]

Grant of licenses in presidency towns.

53. All licenses which may by this Act be granted by a Magistrate may in the presidency towns be granted by a Commissioner of Police.

Interpretation of the word "India."

54. The word "India" in this Act shall mean the territories which are or may become vested in Her Majesty by the Statute 21 & 22 Vic., c. 106, entitled "An Act for the better Government of India."

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[a] So much of this section as relates to the limitation of suits was repealed by Act No. IX of 1871.

ACT No. XXXIV OF 1860.

Received the Governor General's assent on the 2nd August 1860.

An Act to indemnify Officers of Government and other persons in respect of fines and contributions levied, and acts done by them during the late disturbances.

Preamble.

WHEREAS fines and penalties have been imposed and levied by officers of Government in respect of acts committed during the late disturbances; and whereas assessments and contributions have been made and collected for the reconstruction or repairs of public buildings destroyed or injured during the same period and for other purposes; and whereas it is expedient to indemnify all officers of Government and other persons acting under the authority of officers of Government from any penalties or proceedings to which they may have rendered themselves liable since the tenth day of May 1857 in respect of the said fines, penalties, assessments and contributions, and of any other acts which may have been done by them, and which have been or shall be ratified by the executive Government, and to confirm and make valid the levy of the said fines, penalties, assessments and contributions, and the said acts; It is enacted as follows:—

Indemnity in respect of fines, penalties, &c., imposed since 10th May 1857.

1. All fines, penalties, assessments and contributions imposed since the tenth day of May 1857 in respect of the destruction or injury of Government or other property, or on any other account connected with the late disturbances, by any officer of Government, or by any person acting under the authority of an officer of Government, shall be deemed to have been duly imposed and levied if the same shall have been levied in pursuance of an order of Government or shall have been or shall be ratified by the executive Government; and all officers of Government and all persons acting under their authority are hereby indemnified and discharged from liability in respect of any such fines, penalties, assessments and contributions, and levying the same, and no suit or proceeding shall be commenced or prosecuted in respect thereof.

Proviso.

Provided that nothing in this Act shall authorize the levy of any fine, penalty, assessment or contribution not already levied.

Indemnity for certain acts done since 10th May 1857.

2. All acts done since the tenth day of May 1857 in connection with the late disturbances by officers of Government, or by persons acting under their authority or otherwise, in pursuance of an order of Government, or which shall have been or shall be ratified by the executive Government, are hereby confirmed and made valid; and all such officers of Government and persons as aforesaid are hereby indemnified and discharged from liability in respect of such acts.

THE INDIAN PENAL CODE.

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ACT No. XLV OF 1860.

Received the Governor General's assent on the 6th October 1860.

The Indian Penal Code.[a]

CHAPTER I.

INTRODUCTION.

Preamble.

WHEREAS it is expedient to provide a General Penal Code for British India; It is enacted as follows:—

Title and extent of operation of the Code.

1. This Act shall be called THE INDIAN PENAL CODE, and shall take effect on and from the first day of January 1862[b] throughout the whole of the territories which are or may become vested in Her Majesty by the Statute 21 & 22 Victoria, Chapter 106, entitled "An Act for the better government of India," except the Settlement of Prince of Wales' Island, Singapore and Malacca.

Punishment of offences committed within the said territories.

2. Every person shall be liable to punishment under this Code and not otherwise for every act or omission contrary to the provisions thereof, of which he shall be guilty within the said territories on or after the said first day of January 1862.[c]

Punishment of offences committed beyond, but which by law may be tried within, the territories.

3. Any person liable, by any law passed by the Governor General of India in Council, to be tried for an offence committed beyond the limits of the said territories, shall be dealt with according to the provisions of this Code for any act committed beyond the said territories, in the same manner as if such act had been committed within the said territories.

Punishment of offences committed by a servant of the Queen within a foreign allied State.

4. Every servant of the Queen shall be subject to punishment under this Code for every act or omission contrary to the provisions thereof, of which he, whilst in such service, shall be guilty on or after the said first day of May 1861, within the dominions of any Prince or State in alliance with the Queen, by virtue of any treaty or engagement heretofore entered into with the East India Company, or which may have been or may hereafter be made in the name of the Queen by any Government of India.

Certain laws not to be affected by this Act.

5. Nothing in this Act is intended to repeal, vary, suspend, or affect any of the provisions of the Statute 3 & 4 William IV, Chapter 85, or of any Act of Parliament passed after that Statute in any wise affecting the East India Company, or the said territories, or the inhabitants thereof; or any of the provisions of any Act for punishing mutiny and desertion of officers and soldiers in the service of Her Majesty, or of any special or local law.

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[a] See Acts Nos. XIV and XXVII of 1870, and No. XIX of 1872.
[b], [c] See Act No. VI of 1861.

CHAPTER II.

General Explanations.

Definitions in the Code to be understood subject to exceptions.

6. Throughout this Code every definition of an offence, every penal provision, and every illustration of every such definition or penal provision, shall be understood subject to the exceptions contained in the chapter entitled "General Exceptions," though those exceptions are not repeated in such definition, penal provision, or illustration.

Illustrations.

(*a*). The sections, in this Code, which contain definitions of offences, do not express that a child under seven years of age cannot commit such offences; but the definitions are to be understood subject to the general exception which provides that nothing shall be an offence which is done by a child under seven years of age.

(*b*). A, a Police officer, without warrant, apprehends Z, who has committed murder. Here A is not guilty of the offence of wrongful confinement; for he was bound by law to apprehend Z, and therefore the case falls within the general exception which provides that "nothing is an offence which is done by a person who is bound by law to do it."

Sense of expression once explained.

7. Every expression which is explained in any part of this Code, is used in every part of this Code in conformity with the explanation.

Gender.

8. The pronoun "he" and its derivatives are used of any person, whether male or female.

Number.

9. Unless the contrary appears from the context, words importing the singular number include the plural number, and words importing the plural number include the singular number.

"Man." "Woman."

10. The word "man" denotes a male human being of any age: the word "woman" denotes a female human being of any age.

"Person."

11. The word "person" includes any Company or Association or body of persons, whether incorporated or not.

"Public."

12. The word "public" includes any class of the public or any community.

"Queen."

13. The word "Queen" denotes the Sovereign for the time being of the United Kingdom of Great Britain and Ireland.

"Servant of the Queen."

14. The words "servant of the Queen" denote all officers or servants continued, appointed, or employed in India by or under the authority of the said Statute 21 & 22 Victoria, Chapter 106, entitled "An Act for the better government of India," or by or under the authority of the Government of India or any Government.

"British India."

15. The words "British India" denote the territories which are or may become vested in Her Majesty by the said Statute 21 & 22 Victoria,

Chapter 106, entitled "An Act for the better government of India," except the Settlement of Prince of Wales' Island, Singapore, and Malacca.

"Government of India."

16. The words "Government of India" denote the Governor General of India in Council, or, during the absence of the Governor General of India from his Council, the President in Council, or the Governor General of India alone as regards the powers which may be lawfully exercised by them or him respectively.

"Government."

17. The word "Government" denotes the person or persons authorized by law to administer executive government in any part of British India.

"Presidency."

18. The word "Presidency" denotes the territories subject to the Government of a presidency.

"Judge."

19. The word "Judge" denotes not only every person who is officially designated as a Judge, but also every person who is empowered by law to give, in any legal proceeding, civil or criminal, a definitive judgment, or a judgment which, if not appealed against, would be definitive, or a judgment which, if confirmed by some other authority, would be definitive, or who is one of a body of persons, which body of persons is empowered by law to give such a judgment.

Illustrations.

(*a*). A Collector exercising jurisdiction in a suit under Act X of 1859, is a Judge.

(*b*). A Magistrate exercising jurisdiction in respect of a charge on which he has power to sentence to fine or imprisonment, with or without appeal, is a Judge.

(*c*). A member of a panchâyat which has power, under Regulation VII. 1816 of the Madras Code, to try and determine suits, is a Judge.

(*d*). A Magistrate exercising jurisdiction in respect of a charge on which he has power only to commit for trial to another Court, is not a Judge.

"Court of Justice."

20. The words "Court of Justice" denote a Judge who is empowered by law to act judicially alone, or a body of Judges which is empowered by law to act judicially as a body, when such Judge or body of Judges is acting judicially.

Illustration.

A panchâyat acting under Regulation VII. 1816 of the Madras Code, having power to try and determine suits, is a Court of Justice.

"Public servant."

21. The words "public servant" denote a person falling under any of the descriptions hereinafter following, namely—

First.—Every covenanted servant of the Queen;

Second.—Every commissioned officer in the military or naval forces of the Queen while serving under the Government of India, or any Government;

Third.—Every Judge;

Fourth.—Every officer of a Court of Justice whose duty it is, as such officer, to investigate or report on any matter of law or fact, or to make, authenticate, or keep any document, or to take charge or dispose of any property, or to execute any judicial process, or to administer any oath, or to interpret, or to preserve order in the Court, and every person specially authorized by a Court of Justice to perform any of such duties;

Fifth.—Every juryman, assessor, or member of a panchâyat assisting a Court of Justice or public servant;

Sixth.—Every arbitrator or other person to whom any cause or matter has been referred for decision or report by any Court of Justice, or by any other competent public authority.

Seventh.—Every person who holds any office by virtue of which he is empowered to place or keep any person in confinement;

Eighth.—Every officer of Government whose duty it is, as such officer, to prevent offences, to give information of offences, to bring offenders to justice, or to protect the public health, safety or convenience;

Ninth.—Every officer whose duty it is, as such officer, to take, receive, keep, or expend any property on behalf of Government, or to make any survey, assessment or contract on behalf of Government, or to execute any revenue-process, or to investigate or to report on any matter affecting the pecuniary interests of Government, or to make, authenticate, or keep any document relating to the pecuniary interests of Government, or to prevent the infraction of any law for the protection of the pecuniary interests of Government, and every officer in the service or pay of Government, or remunerated by fees or commission for the performance of any public duty;

Tenth.—Every officer whose duty it is, as such officer, to take, receive, keep, or expend any property, to make any survey or assessment, or to levy any rate or tax for any secular common purpose of any village, town or district, or to make, authenticate, or keep any document for the ascertaining of the rights of the people of any village, town or district.

Illustration.

A municipal commissioner is a public servant.

Explanation 1.—Persons falling under any of the above descriptions are public servants, whether appointed by the Government or not.

Explanation 2.—Wherever the words "public servant" occur, they shall be understood of every person who is in actual possession of the situation of a public servant, whatever legal defect there may be in his right to hold that situation.

"Moveable property."

22. The words "moveable property" are intended to include corporeal property of every description, except land and things attached to the earth, or permanently fastened to any thing which is attached to the earth.

"Wrongful gain."

23. "Wrongful gain" is gain by unlawful means of property to which the person gaining is not legally entitled.

"Wrongful loss."

"Wrongful loss" is the loss by unlawful means of property to which the person losing it is legally entitled.

Gaining wrongfully. Losing wrongfully.

A person is said to gain wrongfully when such person retains wrongfully, as well as when such person acquires wrongfully. A person is said to lose wrongfully when such person is wrongfully kept out of any property, as well as when such person is wrongfully deprived of property.

"Dishonestly."

24. Whoever does any thing with the intention of causing wrongful gain to one person, or wrongful loss to another person, is said to do that thing "dishonestly."

"Fraudulently."

25. A person is said to do a thing fraudulently if he does that thing with intent to defraud, but not otherwise.

"Reason to believe."

26. A person is said to have "reason to believe" a thing, if he has sufficient cause to believe that thing, but not otherwise.

Property in possession of wife, clerk or servant.

27. When property is in the possession of a person's wife, clerk or servant, on account of that person, it is in that person's possession within the meaning of this Code.

Explanation.—A person employed temporarily or on a particular occasion in the capacity of a clerk or servant, is a clerk or servant within the meaning of this section.

"Counterfeit."

28. A person is said to "counterfeit," who causes one thing to resemble another thing, intending by means of that resemblance to practise deception, or knowing it to be likely that deception will thereby be practised.

Explanation.—It is not essential to counterfeiting that the imitation should be exact.

"Document."

29. The word "document" denotes any matter expressed or described upon any substance by means of letters, figures, or marks, or by more than one of those means, intended to be used, or which may be used, as evidence of that matter.

Explanation 1.—It is immaterial by what means, or upon what substance, the letters, figures, or marks are formed, or whether the evidence is intended for, or may be used in, a Court of Justice, or not.

Illustrations.

A writing expressing the terms of a contract, which may be used as evidence of the contract, is a document.

A check upon a banker is a document.

A power-of-attorney is a document.

A map or plan which is intended to be used, or which may be used as evidence, is a document.

A writing containing directions or instructions is a document.

Explanation 2.—Whatever is expressed by means of letters, figures or marks, as explained by mercantile or other usage, shall be deemed to be expressed by such letters, figures or marks within the meaning of this section, although the same may not be actually expressed.

Illustration.

A writes his name on the back of a bill of exchange payable to his order. The meaning of the endorsement, as explained by mercantile usage, is that the bill is to be paid to the holder. The endorsement is a document, and must be construed in the same manner as if the words "pay to the holder," or words to that effect, had been written over the signature.

"Valuable security."

30. The words "valuable security" denote a document which is, or purports to be, a document whereby any legal right is created, extended, transferred, restricted, extinguished or released, or whereby any person acknowledges that he lies under legal liability, or has not a certain legal right.

Illustration.

A writes his name on the back of a bill of exchange. As the effect of this endorsement is to transfer the right to the bill to any person who may become the lawful holder of it, the endorsement is a "valuable security."

"A will."

31. The words "a will" denote any testamentary document.

Words referring to acts include illegal omissions.

32. In every part of this Code, except where a contrary intention appears from the context, words which refer to acts done extend also to illegal omissions.

"Act." "Omission."

33. The word "act" denotes as well a series of acts as a single act: the word "omission" denotes as well a series of omissions as a single omission.

Act done by several persons in furtherance of common intention.

34. When a criminal act is done by several persons in furtherance of the common intention of all, each of such persons is liable for that act in the same manner as if it were done by him alone.[a]

When such act is criminal by reason of its being done with criminal knowledge or intention.

35. Whenever an act, which is criminal only by reason of its being done with a criminal knowledge or intention, is done by several persons, each of such persons who joins in the act with such knowledge or intention, is liable for the act in the same manner as if the act were done by him alone with that knowledge or intention.

[a] See Act No. XXVII of 1870, s. 1.

Effect caused partly by act and partly by omission.

36. Wherever the causing of a certain effect, or an attempt to cause that effect, by an act or by an omission, is an offence, it is to be understood that the causing of that effect partly by an act and partly by an omission is the same offence.

Illustration.

A intentionally causes Z's death, partly by illegally omitting to give Z food, and partly by beating Z. A has committed murder.

Co-operation by doing one of several acts constituting an offence.

37. When an offence is committed by means of several acts, whoever intentionally co-operates in the commission of that offence by doing any one of those acts, either singly or jointly with any other person, commits that offence.

Illustrations.

(*a*). A and B agree to murder Z by severally, and at different times, giving him small doses of poison. A and B administer the poison according to the agreement with intent to murder Z. Z dies from the effects of the several doses of poison so administered to him. Here A and B intentionally co-operate in the commission of murder, and as each of them does an act by which the death is caused, they are both guilty of the offence though their acts are separate.

(*b*). A and B are joint jailors, and as such have the charge of Z, a prisoner, alternately for six hours at a time. A and B, intending to cause Z's death, knowingly co-operate in causing that effect by illegally omitting, each during the time of his attendance, to furnish Z with food supplied to them for that purpose. Z dies of hunger. Both A and B are guilty of the murder of Z.

(*c*). A, a jailor, has the charge of Z, a prisoner. A, intending to cause Z's death, illegally omits to supply Z with food: in consequence of which Z is much reduced in strength, but the starvation is not sufficient to cause his death. A is dismissed from his office, and B succeeds him. B, without collusion or co-operation with A, illegally omits to supply Z with food, knowing that he is likely thereby to cause Z's death. Z dies of hunger. B is guilty of murder; but as A did not co-operate with B, A is guilty only of an attempt to commit murder.

Persons concerned in criminal act may be guilty of different offences.

38. Where several persons are engaged or concerned in the commission of a criminal act, they may be guilty of different offences by means of that act.

Illustration.

A attacks Z under such circumstances of grave provocation that his killing of Z would be only culpable homicide not amounting to murder. B, having ill-will towards Z, and intending to kill him, and not having been subject to the provocation, assists A in killing Z. Here, though A and B are both engaged in causing Z's death, B is guilty of murder and A is guilty only of culpable homicide.

39. A person is said to cause an effect "voluntarily," when he causes it by means whereby he intended to cause it, or by means which, at the time of employing those means, he knew or had reason to believe to be likely to cause it. "Voluntarily."

Illustration.

A sets fire, by night, to an inhabited house in a large town, for the purpose of facilitating a robbery, and thus causes the death of a person. Here, A may not have intended to cause death, and may even be sorry that death has been caused by his act; yet, if he knew that he was likely to cause death, he has caused death voluntarily.

40. Except in the chapter and sections mentioned in clauses two and three of this section, the word "offence" denotes a thing made punishable by this Code. "Offence."

In chapter IV and in the following sections, namely, sections 109, 110, 112, 114, 115, 116, 117, 187, 194, 195, 203, 211, 213, 214, 221, 222, 223, 224, 225, 327, 328, 329, 330, 331, 347, 348, 388, 389 and 445, the word "offence" denotes a thing punishable under this Code, or under any special or local law as hereinafter defined:

And in sections 141, 176, 177, 201, 202, 212, 216 and 441, the word "offence" has the same meaning when the thing punishable under the special or local law is punishable under such law with imprisonment for a term of six months or upwards, whether with or without fine.[a]

41. A "special law" is a law applicable to a particular subject. "Special law."

42. A "local law" is a law applicable only to a particular part of British India. "Local law."

43. The word "illegal" is applicable to every thing which is an offence, or which is prohibited by law, or which furnishes ground for a civil action: and a person is said to be "legally bound to do" whatever it is illegal in him to omit. "Illegal." "Legally bound to do."

44. The word "injury" denotes any harm whatever illegally caused to any person, in body, mind, reputation or property. "Injury."

45. The word "life" denotes the life of a human being, unless the contrary appears from the context. "Life."

46. The word "death" denotes the death of a human being, unless the contrary appears from the context. "Death."

47. The word "animal" denotes any living creature, other than a human being. "Animal."

48. The word "vessel" denotes any thing made for the conveyance by water of human beings, or of property. "Vessel."

[a] See Act No. XXVII of 1870, s. 2.

"Year." "Month."

49. Wherever the word "year" or the word "month" is used, it is to be understood that the year or the month is to be reckoned according to the British calendar.

"Section."

50. The word "section" denotes one of those portions of a chapter of this Code which are distinguished by prefixed numeral figures.

"Oath."

51. The word "oath" includes a solemn affirmation substituted by law for an oath, and any declaration required or authorized by law to be made before a public servant, or to be used for the purpose of proof, whether in a Court of Justice or not.

"Good faith."

52. Nothing is said to be done or believed in good faith, which is done or believed without due care and attention.

CHAPTER III.

Of Punishments.

Punishments.

53. The punishments to which offenders are liable under the provisions of this Code are—

First,—Death;

Secondly,—Transportation;

Thirdly,—Penal servitude;

Fourthly,—Imprisonment, which is of two descriptions, namely:

(1) Rigorous, that is, with hard labour;

(2) Simple;

Fifthly,—Forfeiture of property;

Sixthly,—Fine.[a]

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[a] ACT No. VI of 1864.

Received the Governor General's assent on the 18th February 1864.

An Act to authorize the punishment of whipping in certain cases.

Preamble.

WHEREAS it is expedient that in certain cases offenders should be liable, under the provisions of the Indian Penal Code, to the punishment of whipping; It is enacted as follows:—

Whipping added to the punishments described in section 53 of the Penal Code.

I. In addition to the punishments described in section 53 of the Indian Penal Code, offenders are also liable to whipping under the provisions of the said Code.

Offences punishable with whipping in lieu of other punishment prescribed by Penal Code.

II. Whoever commits any of the following offences may be punished with whipping in lieu of any punishment to which he may for such offence be liable under the Indian Penal Code, that is to say:—

1. Theft, as defined in section 378 of the said Code.

2. Theft in a building, tent or vessel, as defined in section 380 of the said Code.

3. Theft by a clerk or servant, as defined in section 381 of the said Code.

54. In every case in which sentence of death shall have been passed, the Government of India or the Government of the place within which the offender shall have been sentenced may, without the consent of the offender, commute the punishment for any other punishment provided by this Code.

Commutation of sentence of death.

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4. Theft after preparation for causing death or hurt, as defined in section 382 of the said Code.

5. Extortion by threat, as defined in section 388 of the said Code.

6. Putting a person in fear of accusation in order to commit extortion, as defined in section 389 of the said Code.

7. Dishonestly receiving stolen property, as defined in section 411 of the said Code.

8. Dishonestly receiving property stolen in the commission of a dacoity, as defined in section 412 of the said Code.

9. Lurking house-trespass, or house-breaking, as defined in sections 443 and 445 of the said Code, in order to the committing of any offence punishable with whipping under this section.

10. Lurking house-trespass by night, or house-breaking by night, as defined in sections 444 and 446 of the said Code, in order to the committing of any offence punishable with whipping under this section.

III. Whoever, having been previously convicted of any one of the offences specified in the last preceding section, shall again be convicted of the same offence, may be punished with whipping in lieu of or in addition to any other punishment to which he may for such offence be liable under the Indian Penal Code.

On second conviction of any offence mentioned in last section, whipping may be added to other punishment.

IV. Whoever, having been previously convicted of any one of the following offences, shall be again convicted of the same offence, may be punished with whipping in addition to any other punishment to which he may be liable under the Indian Penal Code, that is to say:—

Offences punishable, in case of second conviction, with whipping in addition to other punishment.

1. Giving or fabricating false evidence in such manner as to be punishable under section 193 of the Indian Penal Code.

2. Giving or fabricating false evidence with intent to procure conviction of a capital offence, as defined in section 194 of the said Code.

3. Giving or fabricating false evidence with intent to procure conviction of an offence punishable with transportation or imprisonment, as defined in section 195 of the said Code.

4. Falsely charging any person with having committed an unnatural offence, as defined in sections 211 and 377 of the said Code.

5. Assaulting or using criminal force to any woman with intent to outrage her modesty, as defined in section 354 of the said Code.

6. Rape, as defined in section 375 of the said Code.

7. Unnatural offences, as defined in section 377 of the said Code.

8. Robbery or dacoity, as defined in sections 390 and 391 of the said Code.

9. Attempting to commit robbery, as defined in section 393 of the said Code.

10. Voluntarily causing hurt in committing robbery, as defined in section 394 of the said Code.

11. Habitually receiving or dealing in stolen property, as defined in section 413 of the said Code.

12. Forgery, as defined in section 463 of the said Code.

13. Forgery of a document, as defined in section 466 of the said Code.

14. Forgery of a document, as defined in section 467 of the said Code.

Commutation of sentence of transportation for life.

55. In every case in which sentence of transportation for life shall have been passed, the Government of India or the Government of the place within which the offender shall have been sentenced may, without the consent of the offender, commute the punishment for imprisonment of either description for a term not exceeding fourteen years.

Sentence of Europeans and Americans to penal servitude.

56. Whenever any person being a European or American is convicted of an offence punishable under this Code with transportation, the Court shall sentence the offender to penal servitude, instead of transportation, according to the provisions of Act XXIV of 1855:

Proviso as to sentence for term exceeding ten years, but not for life.

Provided that, where an European or American offender would, but for such Act, be liable to be sentenced or ordered to be transported for a term exceeding ten years, but not for life, he shall be liable to be sentenced or ordered to be kept in penal servitude for such term exceeding six years as to the Court seems fit, but not for life.*

Fractions of terms of punishment.

57. In calculating fractions of terms of punishment, transportation for life shall be reckoned as equivalent to transportation for twenty years.

Offenders sentenced to transportation how dealt with until transported.

58. In every case in which a sentence of transportation is passed, the offender, until he is transported, shall be dealt with in the same manner as if sentenced to rigorous imprisonment, and shall be held to have been undergoing his sentence of transportation during the term of his imprisonment.

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15. Forgery for the purpose of cheating, as defined in section 468 of the said Code.

16. Forgery for the purpose of harming the reputation of any person, as defined in section 469 of the said Code.

17. Lurking house-trespass or house-breaking, as defined in sections 443 and 445 of the said Code, in order to the committing of any offence punishable with whipping under this section.

18. Lurking house-trespass by night or house-breaking by night, as defined in sections 444 and 446 of the said Code, in order to the committing of any offence punishable with whipping under this section.

Juvenile offenders punishable with whipping for offences not punishable with death.

V. Any juvenile offender who commits any offence which is not by the Indian Penal Code punishable with death, may, whether for a first or any other offence, be punished with whipping in lieu of any other punishment to which he may for such offence be liable under the said Code.

When offences specified in section IV may be punished with whipping in frontier districts and wild tracts.

VI. Whenever any Local Government shall, by notification in the official gazette, have declared the provisions of this section to be in force in any frontier district or any wild tract of country within the jurisdiction of such Local Government, any person who shall in such district or tract of country after such notification as aforesaid commit any of the offences specified in section IV of this Act, may be punished with whipping in lieu of any other punishment to which he may be liable under the Indian Penal Code.

Exemption of females.

VII. No female shall be punished with whipping, nor shall any person who may be sentenced to death, or to transportation, or to penal servitude, or to imprisonment for more than five years, be punished with whipping.

* See Act No. XXVII of 1870, s. 3.

59. In every case in which an offender is punishable with imprisonment for a term of seven years or upwards, it shall be competent to the Court which sentences such offender, instead of awarding sentence of imprisonment, to sentence the offender to transportation for a term not less than seven years, and not exceeding the term for which by this Code such offender is liable to imprisonment.

In what cases transportation may be awarded instead of imprisonment.

60. In every case in which an offender is punishable with imprisonment which may be of either description, it shall be competent to the Court which sentences such offender to direct in the sentence that such imprisonment shall be wholly rigorous, or that such imprisonment shall be wholly simple, or that any part of such imprisonment shall be rigorous and the rest simple.

Sentence may be (in certain cases of imprisonment) wholly or partly rigorous or simple.

61. In every case in which a person is convicted of an offence for which he is liable to forfeiture of all his property, the offender shall be incapable of acquiring any property, except for the benefit of Government, until he shall have undergone the punishment awarded, or the punishment to which it shall have been commuted, or until he shall have been pardoned.

Sentence of forfeiture of property.

Illustration.

A being convicted of waging war against the Government of India, is liable to forfeiture of all his property. After the sentence, and whilst the same is in force, A's father dies, leaving an estate which, but for the forfeiture, would become the property of A. The estate becomes the property of Government.

62. Whenever any person is convicted of an offence punishable with death, the Court may adjudge that all his property, moveable and immoveable, shall be forfeited to Government; and whenever any person shall be convicted of any offence for which he shall be transported, or sentenced to imprisonment for a term of seven years or upwards, the Court may adjudge that the rents and profits of all his moveable and immoveable estate during the period of his transportation or imprisonment, shall be forfeited to Government, subject to such provision for his family and dependents as the Government may think fit to allow during such period.

Forfeiture of property, in respect of offenders punishable with death, transportation, or imprisonment.

63. Where no sum is expressed to which a fine may extend, the amount of fine to which the offender is liable is unlimited, but shall not be excessive.

Amount of fine.

64. In every case in which an offender is sentenced to a fine, it shall be competent to the Court which sentences such offender to direct by the sentence that, in default of payment of the fine, the offender shall suffer imprisonment for a certain term, which imprisonment shall be in excess of any other imprisonment to which he may have been sentenced, or to which he may be liable under a commutation of a sentence.

Sentence of imprisonment in default of payment of fine.

Limit to imprisonment for non-payment of fine, when imprisonment and fine awardable.

65. The term for which the Court directs the offender to be imprisoned in default of payment of a fine, shall not exceed one-fourth of the term of imprisonment which is the maximum fixed for the offence, if the offence be punishable with imprisonment as well as fine.

Description of imprisonment for such default.

66. The imprisonment which the Court imposes in default of payment of a fine may be of any description to which the offender might have been sentenced for the offence.

Imprisonment for non-payment of fine, when offence punishable with fine only.

67. If the offence be punishable with fine only, the term for which the Court directs the offender to be imprisoned, in default of payment of fine, shall not exceed the following scale, that is to say, for any term not exceeding two months when the amount of the fine shall not exceed fifty rupees, and for any term not exceeding four months when the amount shall not exceed one hundred rupees, and for any term not exceeding six months in any other case.

Imprisonment to terminate on payment of fine.

68. The imprisonment which is imposed in default of payment of a fine shall terminate whenever that fine is either paid or levied by process of law.

Termination of such imprisonment upon payment of proportional part of fine.

69. If, before the expiration of the term of imprisonment fixed in default of payment, such a proportion of the fine be paid or levied that the term of imprisonment suffered in default of payment, is not less than proportional to the part of the fine still unpaid, the imprisonment shall terminate.

Illustration.

A is sentenced to a fine of one hundred rupees, and to four months' imprisonment in default of payment. Here, if seventy-five rupees of the fine be paid or levied before the expiration of one month of the imprisonment, A will be discharged as soon as the first month has expired. If seventy-five rupees be paid or levied at the time of the expiration of the first month, or at any later time while A continues in imprisonment, A will be immediately discharged. If fifty rupees of the fine be paid or levied before the expiration of two months of the imprisonment, A will be discharged as soon as the two months are completed. If fifty rupees be paid or levied at the time of the expiration of those two months, or at any later time while A continues in imprisonment, A will be immediately discharged.

Fine leviable within 6 years, or during imprisonment.

Death not to discharge property from liability.

70. The fine, or any part thereof which remains unpaid, may be levied at any time within six years after the passing of the sentence, and if, under the sentence, the offender be liable to imprisonment for a longer period than six years, then at any time previous to the expiration of that period; and the death of the offender does not discharge from the liability any property which would, after his death, be legally liable for his debts.

71. Where anything which is an offence is made up of parts, any of which parts is itself an offence, the offender shall not be punished with the punishment of more than one of such his offences, unless it be so expressly provided.

Limit of punishment of offence made up of several offences.

Illustrations.

(*a*). A gives Z fifty strokes with a stick. Here A may have committed the offence of voluntarily causing hurt to Z by the whole beating, and also by each of the blows which make up the whole beating. If A were liable to punishment for every blow, he might be imprisoned for fifty years, one for each blow. But he is liable only to one punishment for the whole beating.

(*b*). But if, while A is beating Z, Y interferes, and A intentionally strikes Y, here, as the blow given to Y is no part of the act whereby A voluntarily causes hurt to Z, A is liable to one punishment for voluntarily causing hurt to Z, and to another for the blow given to Y.

72. In all cases in which judgment is given that a person is guilty of one of several offences specified in the judgment, but that it is doubtful of which of these offences he is guilty, the offender shall be punished for the offence for which the lowest punishment is provided if the same punishment is not provided for all.

Punishment of person guilty of one of several offences, the judgment stating that it is doubtful of which.

73. Whenever any person is convicted of an offence for which under this Code the Court has power to sentence him to rigorous imprisonment, the Court may, by its sentence, order that the offender shall be kept in solitary confinement for any portion or portions of the imprisonment to which he is sentenced, not exceeding three months in the whole, according to the following scale, that is to say—

Solitary confinement.

a time not exceeding one month if the term of imprisonment shall not exceed six months:

a time not exceeding two months if the term of imprisonment shall exceed six months and be less than a year:

a time not exceeding three months if the term of imprisonment shall exceed one year.

74. In executing a sentence of solitary confinement, such confinement shall in no case exceed fourteen days at a time, with intervals between the periods of solitary confinement of not less duration than such periods; and when the imprisonment awarded shall exceed three months, the solitary confinement shall not exceed seven days in any one month of the whole imprisonment awarded, with intervals between the periods of solitary confinement of not less duration than such periods.

Limit of solitary confinement.

Punishment of persons convicted, after a previous conviction, of an offence punishable with three years' imprisonment.

75. Whoever, having been convicted of an offence punishable under chapter XII or chapter XVII of this Code with imprisonment of either description for a term of three years or upwards, shall be guilty of any offence punishable under either of those chapters with imprisonment of either description for a term of three years or upwards, shall be subject for every such subsequent offence to transportation for life, or to double the amount of punishment to which he would otherwise have been liable for the same; provided that he shall not in any case be liable to imprisonment for a term exceeding ten years.

CHAPTER IV.

General Exceptions.

Act done by a person bound, or by mistake of fact believing himself bound, by law.

76. Nothing is an offence which is done by a person who is, or who by reason of a mistake of fact and not by reason of a mistake of law in good faith believes himself to be, bound by law to do it.

Illustrations.

(*a*). A, a soldier, fires on a mob by the order of his superior officer, in conformity with the commands of the law. A has committed no offence.

(*b*). A, an officer of a Court of Justice, being ordered by that Court to arrest Y, and, after due enquiry, believing Z to be Y, arrests Z. A has committed no offence.

Act of Judge when acting judicially.

77. Nothing is an offence which is done by a Judge when acting judicially in the exercise of any power which is, or which in good faith he believes to be, given to him by law.

Act done pursuant to the judgment or order of Court.

78. Nothing which is done in pursuance of, or which is warranted by, the judgment or order of a Court of Justice, if done whilst such judgment or order remains in force, is an offence, notwithstanding the Court may have had no jurisdiction to pass such judgment or order, provided the person doing the act in good faith believes that the Court had such jurisdiction.

Act done by a person justified, or by mistake of fact believing himself justified, by law.

79. Nothing is an offence which is done by any person who is justified by law, or who by reason of a mistake of fact and not by reason of a mistake of law in good faith believes himself to be justified by law, in doing it.

Illustration.

A sees Z commit what appears to A to be a murder. A, in the exercise, to the best of his judgment exerted in good faith, of the power which the law gives to all persons of apprehending murderers in the fact, seizes Z, in order to bring Z before the proper authorities. A has committed no offence, though it may turn out that Z was acting in self-defence.

80. Nothing is an offence which is done by accident or misfortune, and without any criminal intention or knowledge in the doing of a lawful act in a lawful manner, by lawful means, and with proper care and caution.

Accident in doing a lawful act.

Illustration.

A is at a work with a hatchet; the head flies off and kills a man who is standing by. Here, if there was no want of proper caution on the part of A, his act is excusable and not an offence.

81. Nothing is an offence merely by reason of its being done with the knowledge that it is likely to cause harm, if it be done without any criminal intention to cause harm, and in good faith for the purpose of preventing or avoiding other harm to person or property.

Act likely to cause harm, but done without criminal intent, and to prevent other harm.

Explanation.—It is a question of fact in such a case whether the harm to be prevented or avoided was of such a nature and so imminent as to justify or excuse the risk of doing the act with the knowledge that it was likely to cause harm.

Illustrations.

(*a*). A, the captain of a steam-vessel, suddenly and without any fault or negligence on his part, finds himself in such a position that, before he can stop his vessel, he must inevitably run down a boat, B, with twenty or thirty passengers on board, unless he changes the course of his vessel, and that, by changing his course, he must incur risk of running down a boat, C, with only two passengers on board, which he may possibly clear. Here, if A alters his course without any intention to run down the boat C, and in good faith for the purpose of avoiding the danger to the passengers in the boat B, he is not guilty of an offence, though he may run down the boat C by doing an act which he knew was likely to cause that effect, if it be found as a matter of fact that the danger which he intended to avoid was such as to excuse him in incurring the risk of running down the boat C.

(*b*). A in a great fire pulls down houses in order to prevent the conflagration from spreading. He does this with the intention, in good faith, of saving human life or property. Here, if it be found that the harm to be prevented was of such a nature and so imminent as to excuse A's act, A is not guilty of the offence.

82. Nothing is an offence which is done by a child under seven years of age.

Act of a child under 7 years of age.

83. Nothing is an offence which is done by a child above seven years of age and under twelve, who has not attained sufficient maturity of understanding to judge of the nature and consequence of his conduct on that occasion.

Act of a child above 7 and under 12, of immature understanding.

84. Nothing is an offence which is done by a person who, at the time of doing it, by reason of unsoundness of mind, is incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law.

Act of a person of unsound mind.

Act of a person incapable of judgment by reason of intoxication caused against his will.

85. Nothing is an offence which is done by a person who, at the time of doing it, is, by reason of intoxication, incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law; provided that the thing which intoxicated him was administered to him without his knowledge or against his will.

Offence requiring a particular intent or knowledge committed by one who is intoxicated.

86. In cases where an act done is not an offence unless done with a particular knowledge or intent, a person who does the act in a state of intoxication shall be liable to be dealt with as if he had the same knowledge as he would have had if he had not been intoxicated, unless the thing which intoxicated him was administered to him without his knowledge or against his will.

Act not intended and not known to be likely to cause death or grievous hurt, done by consent.

87. Nothing, which is not intended to cause death or grievous hurt, and which is not known by the doer to be likely to cause death or grievous hurt, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, to any person above eighteen years of age, who has given consent, whether express or implied, to suffer that harm; or by reason of any harm which it may be known by the doer to be likely to cause to any such person who has consented to take the risk of that harm.

Illustration.

A and Z agree to fence with each other for amusement. This agreement implies the consent of each to suffer any harm which, in the course of such fencing, may be caused without foul play; and if A, while playing fairly, hurts Z, A commits no offence.

Act not intended to cause death, done by consent in good faith for person's benefit.

88. Nothing, which is not intended to cause death, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, or be known by the doer to be likely to cause, to any person for whose benefit it is done in good faith, and who has given a consent, whether express or implied, to suffer that harm, or to take the risk of that harm.

Illustration.

A, a surgeon, knowing that a particular operation is likely to cause the death of Z, who suffers under a painful complaint, but not intending to cause Z's death, and intending, in good faith, Z's benefit, performs that operation on Z, with Z's consent. A has committed no offence.

Act done in good faith for benefit of child or insane person, by or by consent of

89. Nothing, which is done in good faith for the benefit of a person under twelve years of age, or of unsound mind by or by consent, either express or implied, of the guardian or other person having lawful charge of that person, is an offence by reason of any harm which it may cause, or be intended

by the doer to cause, or be known by the doer to be likely to cause, to that person: Provided— guardian. Provisoes.

First.—That this exception shall not extend to the intentional causing of death, or to the attempting to cause death;

Secondly.—That this exception shall not extend to the doing of anything which the person doing it knows to be likely to cause death, for any purpose other than the preventing of death or grievous hurt, or the curing of any grievous disease or infirmity;

Thirdly.—That this exception shall not extend to the voluntary causing of grievous hurt, or to the attempting to cause grievous hurt, unless it be for the purpose of preventing death or grievous hurt, or the curing of any grievous disease or infirmity;

Fourthly.—That this exception shall not extend to the abetment of any offence, to the committing of which offence it would not extend.

Illustration.

A, in good faith, for his child's benefit, without his child's consent, has his child cut for the stone by a surgeon, knowing it to be likely that the operation will cause the child's death, but not intending to cause the child's death. A is within the exception, inasmuch as his object was the cure of the child.

90. A consent is not such a consent as is intended by any section of this Code, if the consent is given by a person under fear of injury, or under a misconception of fact, and if the person doing the act knows, or has reason to believe, that the consent was given in consequence of such fear or misconception; or Consent known to be given under fear or misconception.

if the consent is given by a person who, from unsoundness of mind or intoxication, is unable to understand the nature and consequence of that to which he gives his consent; or, unless the contrary appears from the context, if the consent is given by a person who is under twelve years of age. Consent of a child or person of unsound mind.

91. The exceptions in sections 87, 88 and 89 do not extend to acts which are offences independently of any harm which they may cause, or be intended to cause, or be known to be likely to cause, to the person giving the consent, or on whose behalf the consent is given. Exclusion of acts which are offences independently of harm caused.

Illustration.

Causing miscarriage (unless caused in good faith for the purpose of saving the life of the woman) is an offence independently of any harm which it may cause or be intended to cause to the woman. Therefore it is not an offence "by reason of such harm;" and the consent of th woman or of her guardian to the causing of such miscarriage does not justify the act.

Act done in good faith for the benefit of a person without consent.

92. Nothing is an offence by reason of any harm which it may cause to a person for whose benefit it is done in good faith, even without that person's consent, if the circumstances are such that it is impossible for that person to signify consent, or if that person is incapable of giving consent, and has no guardian or other person in lawful charge of him from whom it is possible to obtain consent in time for the thing to be done with benefit. Provided—

Provisoes.

First.—That this exception shall not extend to the intentional causing of death, or the attempting to cause death;

Secondly.—That this exception shall not extend to the doing of anything which the person doing it knows to be likely to cause death, for any purpose other than the preventing of death or grievous hurt, or the curing of any grievous disease or infirmity;

Thirdly.—That this exception shall not extend to the voluntary causing of hurt, or to the attempting to cause hurt, for any purpose other than the preventing of death or hurt;

Fourthly.—That this exception shall not extend to the abetment of any offence, to the committing of which offence it would not extend.

Illustrations.

(*a*). Z is thrown from his horse, and is insensible. A, a surgeon, finds that Z requires to be trepanned. A, not intending Z's death, but in good faith, for Z's benefit, performs the trepan before Z recovers his power of judging for himself. A has committed no offence.

(*b*). Z is carried off by a tiger. A fires at the tiger knowing it to be likely that the shot may kill Z, but not intending to kill Z, and in good faith intending Z's benefit. A's ball gives Z a mortal wound. A has committed no offence.

(*c*). A, a surgeon, sees a child suffer an accident which is likely to prove fatal unless an operation be immediately performed. There is not time to apply to the child's guardian. A performs the operation in spite of the entreaties of the child, intending, in good faith, the child's benefit. A has committed no offence.

(*d*). A is in a house which is on fire, with Z, a child. People below hold out a blanket. A drops the child from the house-top, knowing it to be likely that the fall may kill the child, but not intending to kill the child, and intending, in good faith, the child's benefit. Here, even if the child is killed by the fall, A has committed no offence.

Explanation.—Mere pecuniary benefit is not benefit within the meaning of sections 88, 89 and 92.

Communication made in good faith.

93. No communication made in good faith is an offence by reason of any harm to the person to whom it is made, if it is made for the benefit of that person.

Illustration.

A, a surgeon, in good faith, communicates to a patient his opinion that he cannot live. The patient dies in consequence of the shock. A has committed no offence, though he knew it to be likely that the communication might cause the patient's death.

94. Except murder and offences against the State, punishable with death, nothing is an offence which is done by a person who is compelled to do it by threats, which, at the time of doing it, reasonably cause the apprehension that instant death to that person will otherwise be the consequence; provided the person doing the act did not of his own accord, or from a reasonable apprehension of harm to himself short of instant death, place himself in the situation by which he became subject to such constraint. Act to which a person is compelled by threats.

Explanation 1.—A person who, of his own accord, or by reason of a threat of being beaten, joins a gang of dacoits, knowing their character, is not entitled to the benefit of this exception, on the ground of his having been compelled by his associates to do anything that is an offence by law.

Explanation 2.—A person seized by a gang of dacoits, and forced, by threat of instant death, to do a thing which is an offence by law—for example, a smith compelled to take his tools and to force the door of a house for the dacoits to enter and plunder it—is entitled to the benefit of this exception.

95. Nothing is an offence by reason that it causes, or that it is intended to cause, or that it is known to be likely to cause, any harm, if that harm is so slight that no person of ordinary sense and temper would complain of such harm. Act causing slight harm.

Of the Right of Private Defence.

96. Nothing is an offence which is done in the exercise of the right of private defence. Things done in private defence.

97. Every person has a right, subject to the restrictions contained in section 99, to defend— Right of private defence of the body and of property.

First.—His own body, and the body of any other person, against any offence affecting the human body;

Secondly.—The property, whether moveable or immoveable, of himself or of any other person, against any act which is an offence falling under the definition of theft, robbery, mischief or criminal trespass, or which is an attempt to commit theft, robbery, mischief or criminal trespass.

98. When an act, which would otherwise be a certain offence, is not that offence by reason of the youth, the want of maturity of understanding, the unsoundness of mind, or the intoxication, of the person doing that act, or by reason of any misconception on the part of that person, every person has the Right of private defence against the act of a person of unsound mind, &c.

same right of private defence against that act which he would have if the act were that offence.

Illustrations.

(*a*). Z, under the influence of madness, attempts to kill A; Z is guilty of no offence. But A has the same right of private defence which he would have if Z were sane.

(*b*). A enters by night a house which he is legally entitled to enter. Z, in good faith, taking A for a house-breaker, attacks A. Here Z, by attacking A under this misconception, commits no offence. But A has the same right of private defence against Z, which he would have if Z were not acting under that misconception.

Acts against which there is no right of private defence.

99. *First.*—There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done, or attempted to be done, by a public servant acting in good faith under colour of his office, though that act may not be strictly justifiable by law.

Second.—There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done, or attempted to be done, by the direction of a public servant acting in good faith under colour of his office, though that direction may not be strictly justifiable by law.

Third.—There is no right of private defence in cases in which there is time to have recourse to the protection of the public authorities.

Extent to which the right may be exercised.

Fourth.—The right of private defence in no case extends to the inflicting of more harm than it is necessary to inflict for the purpose of defence.

Explanation 1.—A person is not deprived of the right of private defence against an act done, or attempted to be done, by a public servant, as such, unless he knows, or has reason to believe, that the person doing the act is such public servant.

Explanation 2.—A person is not deprived of the right of private defence against an act done, or attempted to be done, by the direction of a public servant, unless he knows, or has reason to believe, that the person doing the act is acting by such direction; or unless such person states the authority under which he acts, or, if he has authority in writing, unless he produces such authority, if demanded.

When the right of private defence of the body extends to causing death.

100. The right of private defence of the body extends, under the restrictions mentioned in the last preceding section, to the voluntary causing of death or of any other harm to the assailant, if the offence which occasions the exercise of the right be of any of the descriptions hereinafter enumerated, namely—

First.—Such an assault as may reasonably cause the apprehension that death will otherwise be the consequence of such assault;

Secondly.—Such an assault as may reasonably cause the apprehension that grievous hurt will otherwise be the consequence of such assault;

Thirdly.—An assault with the intention of committing rape;

Fourthly.—An assault with the intention of gratifying unnatural lust;

Fifthly.—An assault with the intention of kidnapping or abducting;

Sixthly.—An assault with the intention of wrongfully confining a person, under circumstances which may reasonably cause him to apprehend that he will be unable to have recourse to the public authorities for his release.

When such right extends to causing any harm other than death.

101. If the offence be not of any of the descriptions enumerated in the last preceding section, the right of private defence of the body does not extend to the voluntary causing of death to the assailant, but does extend, under the restrictions mentioned in section 99, to the voluntary causing to the assailant of any harm other than death.

Commencement and continuance of the right of private defence of the body.

102. The right of private defence of the body commences as soon as a reasonable apprehension of danger to the body arises from an attempt or threat to commit the offence, though the offence may not have been committed; and it continues as long as such apprehension of danger to the body continues.

When the right of private defence of property extends to causing death.

103. The right of private defence of property extends, under the restrictions mentioned in section 99, to the voluntary causing of death or of any other harm to the wrong-doer, if the offence, the committing of which, or the attempting to commit which, occasions the exercise of the right, be an offence of any of the descriptions hereinafter enumerated, namely—

First.—Robbery;

Secondly.—House-breaking by night;

Thirdly.—Mischief by fire committed on any building, tent or vessel, which building, tent or vessel is used as a human dwelling, or as a place for the custody of property;

Fourthly.—Theft, mischief or house-trespass, under such circumstances as may reasonably cause apprehension that death or grievous hurt will be the consequence, if such right of private defence is not exercised.

When such right extends to causing any harm other than death.

104. If the offence, the committing of which, or the attempting to commit which, occasions the exercise of the right of private defence, be theft, mischief or criminal trespass, not of any of the descriptions enumerated in the last preceding section, that right does not extend to the voluntary causing of death, but does extend, subject to the restrictions mentioned in section 99, to the voluntary causing to the wrong-doer of any harm other than death.

Commencement and con-

105. *First.*—The right of private defence of property commences when a reasonable apprehension of danger to the property commences.

tinuance of the right of private defence of property.

Second.—The right of private defence of property against theft continues till the offender has effected his retreat with the property, or the assistance of the public authorities is obtained, or the property has been recovered.

Third.—The right of private defence of property against robbery continues as long as the offender causes or attempts to cause to any person death or hurt or wrongful restraint, or as long as the fear of instant death or of instant hurt or of instant personal restraint continues.

Fourth.—The right of private defence of property against criminal trespass or mischief continues as long as the offender continues in the commission of criminal trespass or mischief.

Fifth.—The right of private defence of property against house-breaking by night continues as long as the house-trespass which has been begun by such house-breaking continues.

Right of private defence against deadly assault when there is risk of harm to innocent person.

106. If, in the exercise of the right of private defence against an assault which reasonably causes the apprehension of death, the defender be so situated that he cannot effectually exercise that right without risk of harm to an innocent person, his right of private defence extends to the running of that risk.

Illustration.

A is attacked by a mob who attempt to murder him. He cannot effectually exercise his right of private defence without firing on the mob, and he cannot fire without risk of harming young children who are mingled with the mob. A commits no offence if by so firing he harms any of the children.

CHAPTER V.

Of Abetment.

Abetment of a thing.

107. A person abets the doing of a thing, who—

First.—Instigates any person to do that thing; or,

Secondly.—Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or,

Thirdly.—Intentionally aids, by any act or illegal omission, the doing of that thing.

Explanation 1.—A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

Illustration.

A, a public officer, is authorized by a warrant from a Court of Justice to apprehend Z. B, knowing that fact and also that C is not Z, wilfully represents to A that C is Z, and thereby intentionally causes A to apprehend C. Here, B abets by instigation the apprehension of C.

Explanation 2.—Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act.

108. A person abets an offence who abets either the commission of an offence, or the commission of an act which would be an offence, if committed by a person capable by law of committing an offence with the same intention or knowledge as that of the abettor. Abettor.

Explanation 1.—The abetment of the illegal omission of an act may amount to an offence although the abettor may not himself be bound to do that act.

Explanation 2.—To constitute the offence of abetment, it is not necessary that the act abetted should be committed, or that the effect requisite to constitute the offence should be caused.

Illustrations.

(*a*). A instigates B to murder C. B refuses to do so. A is guilty of abetting B to commit murder.

(*b*). A instigates B to murder D. B, in pursuance of the instigation, stabs D. D recovers from the wound. A is guilty of instigating B to commit murder.

Explanation 3.—It is not necessary that the person abetted should be capable by law of committing an offence, or that he should have the same guilty intention or knowledge as that of the abettor, or any guilty intention or knowledge.

Illustrations.

(*a*.) A, with a guilty intention, abets a child or a lunatic to commit an act which would be an offence if committed by a person capable by law of committing an offence, and having the same intention as A. Here A, whether the act be committed or not, is guilty of abetting an offence.

(*b*.) A, with the intention of murdering Z, instigates B, a child under seven years of age, to do an act which causes Z's death. B, in consequence of the abetment, does the act, and thereby causes Z's death. Here, though B was not capable by law of committing an offence, A is liable to be punished in the same manner as if B had been capable by law of committing an offence and had committed murder, and he is therefore subject to the punishment of death.

(*c.*) A instigates B to set fire to a dwelling-house. B, in consequence of the unsoundness of his mind, being incapable of knowing the nature of the act, or that he is doing what is wrong or contrary to law, sets fire to the house in consequence of A's instigation. B has committed no offence, but A is guilty of abetting the offence of setting fire to a dwelling-house, and is liable to the punishment provided for that offence.

(*d.*) A, intending to cause a theft to be committed, instigates B to take property belonging to Z out of Z's possession. A induces B to believe that the property belongs to A. B takes the property out of Z's possession, in good faith believing it to be A's property. B, acting under this misconception, does not take dishonestly, and therefore does not commit theft. But A is guilty of abetting theft, and is liable to the same punishment as if B had committed theft.

Explanation 4.—The abetment of an offence being an offence, the abetment of such an abetment is also an offence.

Illustration.

A instigates B to instigate C to murder Z. B accordingly instigates C to murder Z, and C commits that offence in consequence of B's instigation. B is liable to be punished for his offence with the punishment for murder; and as A instigated B to commit the offence, A is also liable to the same punishment.

Explanation 5.—It is not necessary to the commission of the offence of abetment by conspiracy that the abettor should concert the offence with the person who commits it. It is sufficient if he engage in the conspiracy in pursuance of which the offence is committed.

Illustration.

A concerts with B a plan for poisoning Z. It is agreed that A shall administer the poison. B then explains the plan to C, mentioning that a third person is to administer the poison, but without mentioning A's name. C agrees to procure the poison, and procures and delivers it to B for the purpose of its being used in the manner explained. A administers the poison; Z dies in consequence. Here, though A and C have not conspired together, yet C has been engaged in the conspiracy in pursuance of which Z has been murdered. C has therefore committed the offence defined in this section, and is liable to the punishment for murder.

Punishment of abetment if the act abetted is committed in consequence and where no express provision is made for its punishment.

109. Whoever abets any offence shall, if the act abetted is committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with the punishment provided for the offence.

Explanation.—An act or offence is said to be committed in consequence of abetment, when it is committed in consequence of the instigation, or in pursuance of the conspiracy, or with the aid which constitutes the abetment.

Illustrations.

(*a.*) A offers a bribe to B, a public servant, as a reward for showing A some favour in the exercise of B's official functions. B accepts the bribe. A has abetted the offence defined in section 161.

(*b.*) A instigates B to give false evidence. B, in consequence of the instigation, commits that offence. A is guilty of abetting that offence, and is liable to the same punishment as B.

(*c.*) A and B conspire to poison Z. A, in pursuance of the conspiracy, procures the poison and delivers it to B, in order that he may administer it to Z. B, in pursuance of the conspiracy, administers the poison to Z in A's absence and thereby causes Z's death. Here B is guilty of murder. A is guilty of abetting that offence by conspiracy, and is liable to the punishment for murder.

Punishment of abetment if person abetted does act with different intention from that of abettor.

110. Whoever abets the commission of an offence shall, if the person abetted does the act with a different intention or knowledge from that of the abettor, be punished with the punishment provided for the offence which would have been committed if the act had been done with the intention or knowledge of the abettor and with no other.

Liability of abettor when one act abetted and different act done.

Proviso.

111. When an act is abetted and a different act is done, the abettor is liable for the act done, in the same manner and to the same extent as if he had directly abetted it; provided the act done was a probable consequence of the abetment, and was committed under the influence of the instigation, or with the aid or in pursuance of the conspiracy which constituted the abetment.

Illustrations.

(*a.*) A instigates a child to put poison into the food of Z, and gives him poison for that purpose. The child, in consequence of the instigation, by mistake puts the poison into the food of Y, which is by the side of that of Z. Here, if the child was acting under the influence of A's instigation, and the act done was under the circumstances a probable consequence of the abetment, A is liable in the same manner, and to the same extent, as if he had instigated the child to put the poison into the food of Y.

(*b.*) A instigates B to burn Z's house. B sets fire to the house, and at the same time commits theft of property there. A, though guilty of abetting the burning of the house, is not guilty of abetting the theft; for the theft was a distinct act, and not a probable consequence of the burning.

(*c.*) A instigates B and C to break into an inhabited house at midnight for the purpose of robbery, and provides them with arms for that purpose. B and C break into the house, and being resisted by Z, one of the inmates, murder Z. Here, if that murder was the probable consequence of the abetment, A is liable to the punishment provided for murder.

Abettor when liable to cumulative punishment for act abetted and for act done.

112. If the act for which the abettor is liable under the last preceding section is committed in addition to the act abetted, and constitutes a distinct offence, the abettor is liable to punishment for each of the offences.

Illustration.

A instigates B to resist by force a distress made by a public servant. B, in consequence, resists that distress. In offering the resistance, B voluntarily causes grievous hurt to the officer executing the distress. As B has committed both the offence of resisting the distress, and the offence of voluntarily causing grievous hurt, B is liable to punishment for both these offences; and if A knew that B was likely voluntarily to cause grievous hurt in resisting the distress, A will also be liable to punishment for each of the offences.

Liability of abettor for an effect caused by the act abetted different from that intended by the abettor.

113. When an act is abetted with the intention on the part of the abettor of causing a particular effect, and an act for which the abettor is liable in consequence of the abetment causes a different effect from that intended by the abettor, the abettor is liable for the effect caused, in the same manner and to the same extent as if he had abetted the act with the intention of causing that effect, provided he knew that the act abetted was likely to cause that effect.

Illustration.

A instigates B to cause grievous hurt to Z. B, in consequence of the instigation, causes grievous hurt to Z. Z dies in consequence. Here, if A knew that the grievous hurt abetted was likely to cause death, A is liable to be punished with the punishment provided for murder.

Abettor present when offence is committed.

114. Whenever any person who, if absent, would be liable to be punished as an abettor, is present when the act or offence for which he would be punishable in consequence of the abetment is committed, he shall be deemed to have committed such act or offence.

Abetment of offence punishable with death or transportation for life, if offence not committed,

If act causing harm be done in consequence.

115. Whoever abets the commission of an offence punishable with death or transportation for life, shall, if that offence be not committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and if any act for which the abettor is liable in consequence of the abetment, and which causes hurt to any person, is done, the abettor shall be liable to imprisonment of either description for a term which may extend to fourteen years, and shall also be liable to fine.

Illustration.

A instigates B to murder Z. The offence is not committed. If B had murdered Z, he would have been subject to the punishment of death or transportation

for life. Therefore A is liable to imprisonment for a term which may extend to seven years, and also to a fine; and if any hurt be done to Z in consequence of the abetment, he will be liable to imprisonment for a term which may extend to fourteen years, and to fine.

116. Whoever abets an offence punishable with imprisonment shall, if that offence be not committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with imprisonment of any description provided for that offence, for a term which may extend to one-fourth part of the longest term provided for that offence; or with such fine as is provided for that offence, or with both; and if the abettor or the person abetted is a public servant, whose duty it is to prevent the commission of such offence, the abettor shall be punished with imprisonment of any description provided for that offence, for a term which may extend to one-half of the longest term provided for that offence, or with such fine as is provided for the offence, or with both.

Abetment of offence punishable with imprisonment, if offence be not committed in consequence of abetment.

If abettor or person abetted be a public servant whose duty it is to prevent offence.

Illustrations.

(*a*). A offers a bribe to B, a public servant, as a reward for showing A some favour in the exercise of B's official functions. B refuses to accept the bribe. A is punishable under this section.

(*b*). A instigates B to give false evidence. Here, if B does not give false evidence, A has nevertheless committed the offence defined in this section, and is punishable accordingly.

(*c*). A, a Police officer, whose duty it is to prevent robbery, abets the commission of robbery. Here, though the robbery be not committed, A is liable to one-half of the longest term of imprisonment provided for that offence, and also to fine.

(*d*). B abets the commission of a robbery by A, a Police officer, whose duty it is to prevent that offence. Here, though the robbery be not committed, B is liable to one-half of the longest term of imprisonment provided for the offence of robbery, and also to fine.

117. Whoever abets the commission of an offence by the public generally, or by any number or class of persons exceeding ten, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Abetting the commission of an offence by the public, or by more than ten persons.

Illustration.

A affixes in a public place a placard, instigating a sect consisting of more than ten members to meet at a certain time and place for the purpose of attacking the members of an adverse sect while engaged in a procession. A has committed the offence defined in this section.

118. Whoever, intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence punishable with death or

Concealing a design to commit an offence.

punishable with death or transportation for life—

if the offence be committed;

if the offence be not committed.

transportation for life, voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence, or makes any representation which he knows to be false respecting such design, shall, if that offence be committed, be punished with imprisonment of either description for a term which may extend to seven years: or, if the offence be not committed, with imprisonment of either description for a term which may extend to three years: and in either case shall also be liable to fine.

Illustration.

A, knowing that dacoity is about to be committed at B, falsely informs the Magistrate that a dacoity is about to be committed at C, a place in an opposite direction, and thereby misleads the Magistrate with intent to facilitate the commission of the offence. The dacoity is committed at B in pursuance of the design. A is punishable under this section.

Public servant concealing design to commit offence which it is his duty to prevent—

if offence committed;

if offence punishable with death, &c.;

if offence not committed.

119. Whoever, being a public servant, intending to facilitate, or knowing it to be likely that he will thereby facilitate, the commission of an offence the commission of which it is his duty as such public servant to prevent, voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence, or makes any representation which he knows to be false respecting such design, shall, if the offence be committed, be punished with imprisonment of any description provided for the offence, for a term which may extend to one-half of the longest term of such imprisonment, or with such fine as is provided for that offence, or with both; or, if the offence be punishable with death or transportation for life, with imprisonment of either description for a term which may extend to ten years; or, if the offence be not committed, shall be punished with imprisonment of any description provided for the offence, for a term which may extend to one-fourth part of the longest term of such imprisonment, or with such fine as is provided for the offence, or with both.

Illustration.

A, an officer of police, being legally bound to give information of all designs to commit robbery which may come to his knowledge, and knowing that B designs to commit robbery, omits to give such information, with intent to facilitate the commission of that offence. Here A has by an illegal omission concealed the existence of B's design, and is liable to punishment according to the provision of this section.

Concealing design to commit offence punishable with imprisonment—

120. Whoever, intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence punishable with imprisonment, voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence, or makes any representation which he knows

to be false respecting such design, shall, if the offence be committed, be punished with imprisonment of the description provided for the offence, for a term which may extend to one-fourth, and, if the offence be not committed, to one-eighth, of the longest term of such imprisonment, or with such fine as is provided for the offence, or with both.

if the offence be committed; if not committed.

CHAPTER VI.

Of Offences against the State.

121. Whoever wages war against the Queen, or attempts to wage such war, or abets the waging of such war, shall be punished with death, or transportation for life, and shall forfeit all his property.

Waging, or attempting to wage, war, or abetting waging of war, against Queen.

Illustrations.

(*a*). A joins an insurrection against the Queen. A has committed the offence defined in this section.

(*b*). A in India abets an insurrection against the Queen's Government of Ceylon by sending arms to the insurgents. A is guilty of abetting the waging of war against the Queen.

121A. Whoever within or without British India conspires to commit any of the offences punishable by section 121, or to deprive the Queen of the sovereignty of British India or of any part thereof, or conspires to overawe, by means of criminal force or the show of criminal force, the Government of India or any Local Government, shall be punished with transportation for life or any shorter term, or with imprisonment of either description which may extend to ten years.

Conspiracy to commit offences punishable by section 121.

Explanation.—To constitute a conspiracy under this section, it is not necessary that any act or illegal omission shall take place in pursuance thereof.[a]

122. Whoever collects men, arms, or ammunition, or otherwise prepares to wage war with the intention of either waging or being prepared to wage war against the Queen, shall be punished with transportation for life or imprisonment of either description for a term not exceeding ten years, and shall forfeit all his property.

Collecting arms, &c., with the intention of waging war against the Queen.

123. Whoever by any act, or by any illegal omission, conceals the existence of a design to wage war against the Queen, intending by such concealment to facilitate, or knowing it to be likely that such concealment will facilitate, the waging of such war, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Concealing with intent to facilitate a design to wage war

[a] See Act No. XXVII of 1870, section 4.

Assaulting Governor General, Governor, &c., with intent to compel or restrain the exercise of any lawful power.

124. Whoever, with the intention of inducing or compelling the Governor General of India, or the Governor of any presidency, or a Lieutenant Governor, or a Member of the Council of the Governor General of India, or of the Council of any presidency, to exercise or refrain from exercising in any manner any of the lawful powers of such Governor General, Governor, Lieutenant Governor, or Member of Council, assaults or wrongfully restrains, or attempts wrongfully to restrain, or overawes, by means of criminal force or the show of criminal force, or attempts so to overawe, such Governor General, Governor, Lieutenant Governor, or Member of Council, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Exciting disaffection.

124A. Whoever by words, either spoken or intended to be read, or by signs, or by visible representation or otherwise, excites or attempts to excite feelings of disaffection to the Government established by law in British India, shall be punished with transportation for life or for any term, to which fine may be added, or with imprisonment for a term which may extend to three years, to which fine may be added, or with fine.

Explanation.—Such a disapprobation of the measures of the Government as is compatible with a disposition to render obedience to the lawful authority of the Government, and to support the lawful authority of the Government against unlawful attempts to subvert or resist that authority, is not disaffection. Therefore, the making of comments on the measures of the Government, with the intention of exciting only this species of disapprobation, is not an offence within this clause.[a]

Waging war against Asiatic power in alliance with Queen.

125. Whoever wages war against the Government of any Asiatic power in alliance or at peace with the Queen, or attempts to wage such war, or abets the waging of such war, shall be punished with transportation for life, to which fine may be added, or with imprisonment of either description for a term which may extend to seven years, to which fine may be added, or with fine.

Committing depredation on territories of power at peace with Queen.

126. Whoever commits depredation, or makes preparations to commit depredation, on the territories of any power in alliance or at peace with the Queen, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine and to forfeiture of any property used, or intended to be used, in committing such depredation, or acquired by such depredation.

Receiving property taken by war or de-

127. Whoever receives any property knowing the same to have been taken in the commission of any of the offences mentioned in sections 125 and

[a] See Act No. XXVII of 1870, section 5.

126, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine and to forfeiture of the property so received.

predation mentioned in sections 125, 126.

128. Whoever, being a public servant, and having the custody of any State prisoner or prisoner of war, voluntarily allows such prisoner to escape from any place in which such prisoner is confined, shall be punished with transportation for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Public servant voluntarily allowing prisoner of State or war in his custody to escape.

129. Whoever, being a public servant, and having the custody of any State prisoner or prisoner of war, negligently suffers such prisoner to escape from any place of confinement in which such prisoner is confined, shall be punished with simple imprisonment for a term which may extend to three years, and shall also be liable to fine.

Public servant negligently suffering prisoner of State or war in his custody to escape.

130. Whoever knowingly aids or assists any State prisoner or prisoner of war in escaping from lawful custody, or rescues or attempts to rescue any such prisoner, or harbours or conceals any such prisoner who has escaped from lawful custody, or offers or attempts to offer any resistance to the re-capture of such prisoner, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Aiding escape of, rescuing, or harbouring such prisoner.

Explanation.—A State prisoner or prisoner of war who is permitted to be at large on his parole within certain limits in British India, is said to escape from lawful custody if he goes beyond the limits within which he is allowed to be at large.

CHAPTER VII.

Of Offences relating to the Army and Navy.

131. Whoever abets the committing of mutiny by an officer, soldier or sailor in the Army or Navy of the Queen, or attempts to seduce any such officer, soldier or sailor from his allegiance or his duty, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Abetting mutiny, or attempting to seduce a soldier or sailor from his duty.

Explanation.—In this section the words 'officer' and 'soldier' include any person subject to the Articles of War for the better government of Her Majesty's Army, or to the Articles of War contained in Act No. V of 1869.[a]

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[a] See Act No. XXVII of 1870, section 6.

Abetment of mutiny, if mutiny is committed in consequence thereof.

132. Whoever abets the committing of mutiny by an officer, soldier or sailor in the Army or Navy of the Queen, shall, if mutiny be committed in consequence of that abetment, be punished with death or with transportation for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Abetment of assault by soldier or sailor on his superior officer, when in execution of his office.

133. Whoever abets an assault by an officer, soldier or sailor in the Army or Navy of the Queen, on any superior officer being in the execution of his office, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Abetment of such assault, if the assault is committed.

134. Whoever abets an assault by an officer, soldier or sailor in the Army or Navy of the Queen, on any superior officer being in the execution of his office, shall, if such assault be committed in consequence of that abetment, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Abetment of desertion of soldier or sailor.

135. Whoever abets the desertion of any officer, soldier or sailor in the Army or Navy of the Queen, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Harbouring deserter.

136. Whoever, except as hereinafter excepted, knowing or having reason to believe that an officer, soldier or sailor in the Army or Navy of the Queen has deserted, harbours such officer, soldier or sailor, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Exception.—This provision does not extend to the case in which the harbour is given by a wife to her husband.

Deserter concealed on board merchant-vessel through negligence of master.

137. The master or person in charge of a merchant-vessel, on board of which any deserter from the Army or Navy of the Queen is concealed, shall, though ignorant of such concealment, be liable to a penalty not exceeding five hundred rupees, if he might have known of such concealment, but for some neglect of his duty as such master or person in charge, or but for some want of discipline on board of the vessel.

Abetment of act of insubordination by soldier or sailor.

138. Whoever abets what he knows to be an act of insubordination by an officer, soldier or sailor in the Army or Navy of the Queen, shall, if such act of insubordination be committed in consequence of that abetment, be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Persons subject to Articles of War.

139. No person subject to any Articles of War for the Army or Navy of the Queen, or for any part of such Army or Navy, is subject to punishment under this Code for any of the offences defined in this chapter.

140. Whoever not being a soldier in the military or naval service of the Queen, wears any garb, or carries any token resembling any garb or token used by such a soldier, with the intention that it may be believed that he is such a soldier, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both. Wearing dress of soldier.

CHAPTER VIII.

Of Offences against the public Tranquillity.

141. An assembly of five or more persons is designated an "unlawful assembly," if the common object of the persons composing that assembly, is— Unlawful assembly.

First.—To overawe by criminal force, or show of criminal force, the legislative or executive Government of India, or the Government of any presidency, or any Lieutenant Governor, or any public servant in the exercise of the lawful power of such public servant; or

Second.—To resist the execution of any law, or of any legal process; or

Third.—To commit any mischief or criminal trespass, or other offence; or

Fourth.—By means of criminal force, or show of criminal force, to any person, to take or obtain possession of any property, or to deprive any person of the enjoyment of a right of way, or of the use of water or other incorporeal right of which he is in possession or enjoyment, or to enforce any right or supposed right; or

Fifth.—By means of criminal force, or show of criminal force, to compel any person to do what he is not legally bound to do, or to omit to do what he is legally entitled to do.

Explanation.—An assembly which was not unlawful when it assembled, may subsequently become an unlawful assembly.

142. Whoever, being aware of facts which render any assembly an unlawful assembly, intentionally joins that assembly, or continues in it, is said to be a member of an unlawful assembly. Being member of unlawful assembly.

143. Whoever is a member of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both. Punishment.

144. Whoever, being armed with any deadly weapon, or with anything which, used as a weapon of offence, is likely to cause death, is a member of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. Joining unlawful assembly armed with deadly weapon.

Joining or continuing in unlawful assembly, knowing it has been commanded to disperse.

145. Whoever joins or continues in an unlawful assembly, knowing that such unlawful assembly has been commanded in the manner prescribed by law to disperse, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Force used by one member in prosecution of common object.

146. Whenever force or violence is used by an unlawful assembly, or by any member thereof, in prosecution of the common object of such assembly, every member of such assembly is guilty of the offence of rioting.

Punishment for rioting.

147. Whoever is guilty of rioting, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Rioting, armed with deadly weapon.

148. Whoever is guilty of rioting, being armed with a deadly weapon, or with anything which, used as a weapon of offence, is likely to case death, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Every member of unlawful assembly guilty of offence committed in prosecution of common object.

149. If an offence is committed by any member of an unlawful assembly in prosecution of the common object of that assembly, or such as the members of that assembly knew to be likely to be committed in prosecution of that object, every person who, at the time of the committing of that offence, is a member of the same assembly, is guilty of that offence.

Hiring, or conniving at hiring, of persons to join an unlawful assembly.

150. Whoever hires, or engages or employs, or promotes or connives at the hiring, engagement or employment of any person to join or become a member of any unlawful assembly, shall be punishable as a member of such unlawful assembly, and for any offence which may be committed by any such person as a member of such unlawful assembly, in pursuance of such hiring, engagement or employment, in the same manner as if he had been a member of such unlawful assembly, or himself had committed such offence.

Knowingly joining or continuing in assembly of five or more persons after command to disperse.

151. Whoever knowingly joins or continues in any assembly of five or more persons likely to cause a disturbance of the public peace, after such assembly has been lawfully commanded to disperse, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Explanation.—If the assembly is an unlawful assembly within the meaning of section 141, the offender will be punishable under section 145.

Assaulting or obstructing public servant when suppressing riot, &c.

152. Whoever assaults or threatens to assault, or obstructs or attempts to obstruct, any public servant in the discharge of his duty as such public servant in endeavouring to disperse an unlawful assembly, or to suppress a riot or affray, or uses, or threatens or attempts to use, criminal force to such

public servant, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

153. Whoever malignantly or wantonly, by doing anything which is illegal, gives provocation to any person, intending or knowing it to be likely that such provocation will cause the offence of rioting to be committed, shall, if the offence of rioting be committed in consequence of such provocation, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both; and if the offence of rioting be not committed, with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Wantonly giving provocation, with intent to cause riot—

if rioting be committed;

if not committed.

154. Whenever any unlawful assembly or riot takes place, the owner or occupier of the land upon which such unlawful assembly is held or such riot is committed, and any person having or claiming an interest in such land, shall be punishable with fine not exceeding one thousand rupees, if he or his agent or manager, knowing that such offence is being or has been committed, or having reason to believe it is likely to be committed, do not give the earliest notice thereof in his or their power to the principal officer at the nearest police-station, and do not, in the case of his or their having reason to believe that it was about to be committed, use all lawful means in his or their power to prevent it, and in the event of its taking place, do not use all lawful means in his or their power to disperse or suppress the riot or unlawful assembly.

Owner or occupier of land on which an unlawful assembly is held.

155. Whenever a riot is committed for the benefit or on behalf of any person who is the owner or occupier of any land respecting which such riot takes place, or who claims any interest in such land, or in the subject of any dispute which gave rise to the riot, or who has accepted or derived any benefit therefrom, such person shall be punishable with fine, if he or his agent or manager, having reason to believe that such riot was likely to be committed, or that the unlawful assembly by which such riot was committed was likely to be held, shall not respectively use all lawful means in his or their power to prevent such assembly or riot from taking place and for suppressing and dispersing the same.

Liability of person for whose benefit a riot is committed.

156. Whenever a riot is committed for the benefit or on behalf of any person who is the owner or occupier of any land respecting which such riot takes place, or who claims any interest in such land, or in the subject of any dispute which gave rise to the riot, or who has accepted or derived any benefit therefrom, the agent or manager of such person shall be punishable with fine, if such agent or manager, having reason to believe that such riot was likely to be committed, or that the unlawful assembly by which such riot was committed was likely to be held, shall not use all lawful means in his power to prevent

Liability of agent of owner or occupier for whose benefit a riot is committed.

such riot or assembly from taking place and for suppressing and dispersing the same.

Harbouring persons hired for an unlawful assembly.

157. Whoever harbours, receives, or assembles in any house or premises in his occupation or charge, or under his control, any persons, knowing that such persons have been hired, engaged or employed, or are about to be hired, engaged or employed, to join or become members of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Being hired to take part in unlawful assembly or riot, or to go armed.

158. Whoever is engaged or hired, or offers or attempts to be hired or engaged, to do or assist in doing any of the acts specified in section 141, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both; and whoever, being so engaged or hired as aforesaid, goes armed, or engages or offers to go armed, with any deadly weapon or with anything which, used as a weapon of offence, is likely to cause death, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Affray.

159. When two or more persons, by fighting in a public place, disturb the public peace, they are said to "commit an affray."

Punishment for committing affray.

160. Whoever commits an affray shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to one hundred rupees, or with both.

CHAPTER IX.

Of Offences by or relating to public Servants.[a]

Public servant taking gratification other than legal remuneration in respect of an official act.

161. Whoever, being or expecting to be a public servant, accepts or obtains, or agrees to accept or attempts to obtain, from any person for himself or for any other person, any gratification whatever, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act, or

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[a] ACT No. XXXI of 1867.

Received the Governor General's assent on the 26th June 1867.

An Act to render penal certain offences committed by servants of Railway Companies.

Preamble.

Whereas it is expedient to extend certain provisions of the Indian Penal Code relating to public servants to persons in the employment of Railway Companies; It is hereby enacted as follows:—

Interpretation-clause.

1. In this Act "Railway Company" means the proprietors for the time being of every railway or tramway situate in the territories vested in Her Majesty or Her Successors under the Statute 21 & 22 Vic., cap. 106 (*An Act for the better Government of India*), or (so far only as

for showing or forbearing to show, in the exercise of his official functions, favour or disfavour to any person, or for rendering or attempting to render any service or disservice to any person, with the legislative or executive Government of India, or with the Government of any presidency, or with any Lieutenant Governor, or with any public servant, as such, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Explanations.—"Expecting to be a public servant." If a person not expecting to be in office obtains a gratification by deceiving others into a belief that he is about to be in office, and that he will then serve them, he may be guilty of cheating, but he is not guilty of the offence defined in this section.

"Gratification." The word "gratification" is not restricted to pecuniary gratifications or to gratifications estimable in money.

"Legal remuneration." The words "legal remuneration" are not restricted to remuneration which a public servant can lawfully demand, but include all remuneration which he is permitted by the Government which he serves to accept.

"A motive or reward for doing." A person who receives a gratification as a motive for doing what he does not intend to do, or as a reward for doing what he has not done, comes within these words.

Illustrations.

(*a*). A, a munsif, obtains from Z, a banker, a situation in Z's bank for A's brother, as a reward to A for deciding a cause in favour of Z. A has committed the offence defined in this section.

(*b*). A, holding the office of Resident at the Court of a subsidiary Power, accepts a lákh of rupees from the minister of that Power. It does not appear that A accepted this sum as a motive or reward for doing or forbearing to do any particular official act, or for rendering or attempting to render any particular service to that power with the British Government. But it does appear that A accepted the

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regards British subjects within the dominions hereinafter mentioned) situate in the dominions of Princes and States in the East Indies in alliance with Her Majesty or Her Successors, and the lessees, representatives and assigns of such proprietors.

2. Every officer and servant of a Railway Company shall be deemed a "public servant" within the meaning of sections one hundred and sixty-one, one hundred and sixty-two, one hundred and sixty-three, one hundred and sixty-four and one hundred and sixty-five of the Indian Penal Code. — and servants to be "public servants" within meaning of Penal Code.

3. In the definition of legal remuneration contained in the said section one hundred and sixty-one, the word "Government" shall, for the purposes of this Act, be deemed to include a Railway Company. — "Government" to include a Railway Company.

4. This Act shall be called "The Railway Servants' Act, 1867." — Short title.

sum as a motive or reward for generally showing favour in the exercise of his official functions to that Power. A has committed the offence defined in this section.

(*c*). A, a public servant, induces Z erroneously to believe that A's influence with the Government has obtained a title for Z, and thus induces Z to give A money as a reward for this service. A has committed the offence defined in this section.

Taking gratification, in order, by corrupt or illegal means, to influence public servant.

162. Whoever accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gratification whatever as a motive or reward for inducing, by corrupt or illegal means, any public servant to do or to forbear to do any official act, or in the exercise of the official functions of such public servant to show favour or disfavour to any person, or to render or attempt to render any service or disservice to any person with the legislative or executive Government of India, or with the Government of any presidency, or with any Lieutenant Governor, or with any public servant, as such, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Taking gratification for exercise of personal influence with public servant.

163. Whoever accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gratification whatever, as a motive or reward for inducing, by the exercise of personal influence, any public servant to do or to forbear to do any official act, or in the exercise of the official functions of such public servant to show favour or disfavour to any person, or to render or attempt to render any service or disservice to any person with the legislative or executive Government of India, or with the Government of any presidency, or with any Lieutenant Governor, or with any public servant, as such, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Illustration.

An advocate who receives a fee for arguing a case before a Judge; a person who receives pay for arranging and correcting a memorial addressed to Government, setting forth the services and claims of the memorialist; a paid agent for a condemned criminal, who lays before the Government statements tending to show that the condemnation was unjust—are not within this section, inasmuch as they do not exercise or profess to exercise personal influence.

Punishment for abetment by public servant of offences above defined.

164. Whoever, being a public servant, in respect of whom either of the offences defined in the last two preceding sections is committed, abets the offence, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Illustration.

A is a public servant. B, A's wife, receives a present as a motive for soliciting A to give an office to a particular person. A abets her doing so. B is punishable with imprisonment for a term not exceeding one year, or with fine, or with both. A is punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

165. Whoever, being a public servant, accepts or obtains, or agrees to accept or attempts to obtain, for himself or for any other person, any valuable thing, without consideration, or for a consideration which he knows to be inadequate, from any person whom he knows to have been, or to be, or to be likely to be, concerned in any proceeding or business transacted, or about to be transacted, by such public servant, or having any connection with the official functions of himself or of any public servant to whom he is subordinate, or from any person whom he knows to be interested in or related to the person so concerned, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

Public servant obtaining any valuable thing, without consideration, from person concerned in any proceeding or business transacted by such public servant.

Illustrations.

(*a*). A, a collector, hires a house of Z, who has a settlement-case pending before him. It is agreed that A shall pay fifty rupees a month, the house being such that, if the bargain were made in good faith, A would be required to pay two hundred rupees a month. A has obtained a valuable thing from Z without adequate consideration.

(*b*). A, a Judge, buys of Z, who has a cause pending in A's Court, Government promissory notes at a discount, when they are selling in the market at a premium. A has obtained a valuable thing from Z without adequate consideration.

(*c*). Z's brother is apprehended and taken before A, a Magistrate, on a charge of perjury. A sells to Z shares in a bank at a premium, when they are selling in the market at a discount. Z pays A for the shares accordingly. The money so obtained by A is a valuable thing obtained by him without adequate consideration.

166. Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending to cause, or knowing it to be likely that he will, by such disobedience, cause, injury to any person, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Public servant disobeying law, with intent to cause injury to any person.

Illustration.

A, being an officer directed by law to take property in execution, in order to satisfy a decree pronounced in Z's favour by a Court of Justice, knowingly disobeys that direction of law, with the knowledge that he is likely thereby to cause injury to Z. A has committed the offence defined in this section.

Public servant framing an incorrect document with intent to cause injury.

167. Whoever being a public servant, and being, as such public servant, charged with the preparation or translation of any document, frames or translates that document in a manner which he knows or believes to be incorrect, intending thereby to cause, or knowing it to be likely that he may thereby cause, injury to any person, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Public servant unlawfully engaging in trade.

168. Whoever, being a public servant, and being legally bound, as such public servant not to engage in trade, engages in trade, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Public servant unlawfully buying or bidding for property.

169. Whoever, being a public servant, and being legally bound, as such public servant, not to purchase or bid for certain property, purchases or bids for that property, either in his own name or in the name of another, or jointly or in shares with others, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both; and the property, if purchased, shall be confiscated.

Personating a public servant.

170. Whoever pretends to hold any particular office as a public servant, knowing that he does not hold such office, or falsely personates any other person holding such office, and in such assumed character does or attempts to do any act under colour of such office, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Wearing garb or carrying token used by public servant with fraudulent intent.

171. Whoever, not belonging to a certain class of public servants, wears any garb or carries any token resembling any garb or token used by that class of public servants, with the intention that it may be believed, or with the knowledge that it is likely to be believed, that he belongs to that class of public servants, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both.

CHAPTER X.

Of Contempts of the lawful Authority of public Servants.

Absconding to avoid service of summons or other proceeding from public servant.

172. Whoever absconds in order to avoid being served with a summons, notice, or order proceeding from any public servant, legally competent, as such public servant, to issue such summons, notice or order, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both; or, if the

summons, notice or order is to attend in person or by agent, or to produce a document in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Preventing service of summons or other proceeding, or preventing publication thereof.

173. Whoever in any manner intentionally prevents the serving on himself, or on any other person, of any summons, notice or order proceeding from any public servant legally competent, as such public servant, to issue such summons, notice or order, or intentionally prevents the lawful affixing to any place of any such summons, notice or order, or intentionally removes any such summons, notice or order from any place to which it is lawfully affixed, or intentionally prevents the lawful making of any proclamation, under the authority of any public servant legally competent, as such public servant, to direct such proclamation to be made, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both; or, if the summons, notice, order or proclamation is to attend in person or by agent, or to produce a document in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Non-attendance in obedience to an order from a public servant.

174. Whoever, being legally bound to attend in person or by an agent at a certain place and time in obedience to a summons, notice, order or proclamation proceeding from any public servant legally competent, as such public servant, to issue the same, intentionally omits to attend at that place or time, or departs from the place where he is bound to attend before the time at which it is lawful for him to depart, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both; or, if the summons, notice, order or proclamation is to attend in person or by agent in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Illustrations.

(*a*). A, being legally bound to appear before the Supreme Court at Calcutta, in obedience to a subpœna issuing from that Court, intentionally omits to appear. A has committed the offence defined in this section.

(*b*). A, being legally bound to appear before a zila Judge, as a witness, in obedience to a summons issued by that zila Judge, intentionally omits to appear. A has committed the offence defined in this section.

Omission to produce docu-

175. Whoever, being legally bound to produce or deliver up any document to any public servant, as such, intentionally omits so to produce or

ment to public servant by person legally bound to produce it.

deliver up the same, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both; or, if the document is to be produced or delivered up to a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Illustration.

A, being legally bound to produce a document before a zila Court, intentionally omits to produce the same. A has committed the offence defined in this section.

Omission to give notice or information to public servant by person legally bound to give it.

176. Whoever, being legally bound to give any notice or to furnish information on any subject to any public servant, as such, intentionally omits to give such notice or to furnish such information in the manner and at the time required by law, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both; or, if the notice or information required to be given respects the commission of an offence, or is required for the purpose of preventing the commission of an offence, or in order to the apprehension of an offender, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Furnishing false information.

177. Whoever, being legally bound to furnish information on any subject to any public servant, as such, furnishes, as true, information on the subject which he knows or has reason to believe to be false, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both; or, if the information which he is legally bound to give respects the commission of an offence, or is required for the purpose of preventing the commission of an offence, or in order to the apprehension of an offender, with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Illustrations.

(*a*). A, a landholder, knowing of the commission of a murder within the limits of his estate, wilfully misinforms the Magistrate of the district that the death has occurred by accident in consequence of the bite of a snake. A is guilty of the offence defined in this section.

(*b*). A, a village-watchman, knowing that a considerable body of strangers has passed through his village in order to commit a dacoity in the house of Z, a wealthy merchant residing in a neighbouring place, and being bound, under clause 5, section VII, Regulation III, 1821, of the Bengal Code,[a] to give early and punctual information of the above fact to the officer of the nearest police-station, wilfully

[a] Repealed by Act No. XVII of 1862.

misinforms the police officer that a body of suspicious characters passed through the village with a view to commit dacoity in a certain distant place in a different direction. Here A is guilty of the offence defined in this section.

178. Whoever refuses to bind himself by an oath or affirmation[a] to state the truth, when required so to bind himself by a public servant legally competent to require that he shall so bind himself, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Refusing oath when duly required to take oath by a public servant.

179. Whoever, being legally bound to state the truth on any subject to any public servant, refuses to answer any question demanded of him touching that subject by such public servant, in the exercise of the legal powers of such public servant, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Refusing to answer a public servant authorized to question.

180. Whoever refuses to sign any statement made by him, when required to sign that statement by a public servant legally competent to require that he shall sign that statement, shall be punished with simple imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Refusing to sign statement.

181. Whoever, being legally bound by an oath or affirmation[b] to state the truth on any subject to any public servant or other person authorized by law to administer such oath or affirmation[c], makes to such public servant or other person as aforesaid, touching that subject, any statement which is false, and which he either knows or believes to be false or does not believe to be true, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

False statement on oath to public servant or person authorized to administer an oath.

182. Whoever gives to any public servant any information which he knows or believes to be false, intending thereby to cause, or knowing it to be likely that he will thereby cause, such public servant to use the lawful power of such public servant to the injury or annoyance of any person, or to do or omit anything which such public servant ought not to do or omit if the true state of facts respecting which such information is given were known by him, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

False information, with intent to cause a public servant to use his lawful power to the injury of another person.

Illustrations.

(*a*). A informs a Magistrate that Z, a police officer subordinate to such Magistrate, has been guilty of neglect of duty or misconduct, knowing such informa-

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a, b, c See Act No. X of 1873, section 15.

tion to be false, and knowing it to be likely that the information will cause the Magistrate to dismiss Z. A has committed the offence defined in this section.

(*b*). A falsely informs a public servant that Z has contraband salt in a secret place, knowing such information to be false, and knowing that it is likely that the consequence of the information will be a search of Z's premises, attended with annoyance to Z. A has committed the offence defined in this section.

Resistance to taking of property by lawful authority of public servant.

183. Whoever offers any resistance to the taking of any property by the lawful authority of any public servant, knowing or having reason to believe that he is such public servant, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Obstructing sale of property offered for sale by authority of public servant.

184. Whoever intentionally obstructs any sale of property offered for sale by the lawful authority of any public servant as such, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

Illegal purchase or bid for property offered for sale by authority of public servant.

185. Whoever, at any sale of property held by the lawful authority of a public servant as such, purchases or bids for any property on account of any person, whether himself or any other, whom he knows to be under a legal incapacity to purchase that property at that sale, or bids for such property not intending to perform the obligations under which he lays himself by such bidding, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

Obstructing public servant in discharge of public functions.

186. Whoever voluntarily obstructs any public servant in the discharge of his public functions, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Omission to assist public servant when bound by law to give assistance.

187. Whoever, being bound by law to render or furnish assistance to any public servant in the execution of his public duty, intentionally omits to give such assistance, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both; and if such assistance be demanded of him by a public servant legally competent to make such demand for the purposes of executing any process lawfully issued by a Court of Justice, or of preventing the commission of an offence, or of suppressing a riot or affray, or of apprehending a person charged with or guilty of an offence or of having escaped from lawful custody, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

188. Whoever, knowing that by an order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management, disobeys such direction, shall, if such disobedience causes or tends to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any persons lawfully employed, be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both; and if such disobedience causes or tends to cause danger to human life, health or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Disobedience to order duly promulgated by public servant.

Explanation.—It is not necessary that the offender should intend to produce harm, or contemplate his disobedience as likely to produce harm. It is sufficient that he knows of the order which he disobeys, and that his disobedience produces, or is likely to produce, harm.

Illustration.

An order is promulgated by a public servant lawfully empowered to promulgate such order, directing that a religious procession shall not pass down a certain street. A knowingly disobeys the order, and thereby causes danger of riot. A has committed the offence defined in this section.

189. Whoever holds out any threat of injury to any public servant, or to any person in whom he believes that public servant to be interested, for the purpose of inducing that public servant to do any act, or to forbear or delay to do any act, connected with the exercise of the public functions of such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Threat of injury to a public servant.

190. Whoever holds out any threat of injury to any person for the purpose of inducing that person to refrain or desist from making a legal application for protection against any injury, to any public servant legally empowered as such to give such protection or to cause such protection to be given, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Threat of injury to induce person to refrain from applying for protection to public servant.

CHAPTER XI.

Of False Evidence and Offences against Public Justice.

191. Whoever, being legally bound by an oath, or by any express provision of law to state the truth, or being bound by law to make a declaration upon any subject, makes any statement which is false, and which he either

Giving false evidence.

knows or believes to be false or does not believe to be true, is said to give false evidence.

Explanation 1.—A statement is within the meaning of this section, whether it is made verbally or otherwise.

Explanation 2.—A false statement as to the belief of the person attesting is within the meaning of this section, and a person may be guilty of giving false evidence by stating that he believes a thing which he does not believe, as well as by stating that he knows a thing which he does not know.

Illustrations.

(*a*). A, in support of a just claim which B has against Z for one thousand rupees, falsely swears on a trial that he heard Z admit the justice of B's claim. A has given false evidence.

(*b*). A, being bound by an oath to state the truth, states that he believes a certain signature to be the handwriting of Z, when he does not believe it to be the handwriting of Z. Here A states that which he knows to be false, and therefore gives false evidence.

(*c*). A, knowing the general character of Z's handwriting, states that he believes a certain signature to be the handwriting of Z; A in good faith believing it to be so. Here A's statement is merely as to his belief, and is true as to his belief, and therefore, although the signature may not be the handwriting of Z, A has not given false evidence.

(*d*). A, being bound by an oath to state the truth, states that he knows that Z was at a particular place on a particular day, not knowing anything upon the subject. A gives false evidence whether Z was at that place on the day named, or not.

(*e*) A, an interpreter or translator, gives or certifies as a true interpretation or translation of a statement or document which he is bound by oath to interpret or translate truly that which is not and which he does not believe to be a true interpretation or translation. A has given false evidence.

Fabricating false evidence.

192. Whoever causes any circumstance to exist, or makes any false entry in any book or record, or makes any document containing a false statement, intending that such circumstance, false entry or false statement may appear in evidence in a judicial proceeding, or in a proceeding taken by law before a public servant as such, or before an arbitrator, and that such circumstance, false entry, or false statement, so appearing in evidence, may cause any person, who in such proceeding is to form an opinion upon the evidence, to entertain an erroneous opinion touching any point material to the result of such proceeding, is said "to fabricate false evidence."

Illustrations.

(*a*). A puts jewels into a box belonging to Z, with the intention that they may be found in that box, and that this circumstance may cause Z to be convicted of theft. A has fabricated false evidence.

(*b*). A makes a false entry in his shop-book for the purpose of using it as corroborative evidence in a Court of Justice. A has fabricated false evidence.

(*c*). A, with the intention of causing Z to be convicted of a criminal conspiracy, writes a letter in imitation of Z's handwriting, purporting to be addressed to an accomplice in such criminal conspiracy, and puts the letter in a place which he knows that the officers of the police are likely to search. A has fabricated false evidence.

Punishment for false evidence.

193. Whoever intentionally gives false evidence in any stage of a judicial proceeding, or fabricates false evidence for the purpose of being used in any stage of a judicial proceeding, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and whoever intentionally gives or fabricates false evidence in any other case, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Explanation 1.—A trial before a Court Martial or before a military Court of Request is a judicial proceeding.

Explanation 2.—An investigation directed by law preliminary to a proceeding before a Court of Justice, is a stage of a judicial proceeding, though that investigation may not take place before a Court of Justice.

Illustration.

A, in an enquiry before a Magistrate for the purpose of ascertaining whether Z ought to be committed for trial, makes on oath a statement which he knows to be false. As this enquiry is a stage of a judicial proceeding, A has given false evidence.

Explanation 3.—An investigation directed by a Court of Justice according to law, and conducted under the authority of a Court of Justice, is a stage of a judicial proceeding, though that investigation may not take place before a Court of Justice.

Illustration.

A, in an enquiry before an officer deputed by a Court of Justice to ascertain on the spot the boundaries of land, makes on oath a statement which he knows to be false. As this enquiry is a stage of a judicial proceeding, A has given false evidence.

Giving or fabricating false evidence with intent to procure conviction of capital offence.

194. Whoever gives or fabricates false evidence, intending thereby to cause, or knowing it to be likely that he will thereby cause, any person to be convicted of an offence which is capital by this Code or the law of England,[a] shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine;

If innocent person be

[a] See Act No. XXVII of 1870, sec. 7.

thereby convicted and executed.

and if an innocent person be convicted and executed in consequence of such false evidence, the person who gives such false evidence shall be punished either with death or the punishment hereinbefore described.

Giving or fabricating false evidence with intent to procure conviction of offence punishable with transportation or imprisonment.

195. Whoever gives or fabricates false evidence, intending thereby to cause, or knowing it to be likely that he will thereby cause, any person to be convicted of an offence which by this Code or the law of England[a] is not capital, but punishable with transportation for life, or imprisonment for a term of seven years or upwards, shall be punished as a person convicted of that offence would be liable to be punished.

Illustration.

A gives false evidence before a Court of Justice, intending thereby to cause Z to be convicted of a dacoity. The punishment of dacoity is transportation for life, or rigorous imprisonment for a term which may extend to ten years, with or without fine. A, therefore, is liable to such transportation or imprisonment, with or without fine.

Using evidence known to be false.

196. Whoever corruptly uses or attempts to use as true or genuine evidence any evidence which he knows to be false or fabricated, shall be punished in the same manner as if he gave or fabricated false evidence.

Issuing or signing false certificate.

197. Whoever issues or signs any certificate required by law to be given or signed, or relating to any fact of which such certificate is by law admissible in evidence, knowing or believing that such certificate is false in any material point, shall be punished in the same manner as if he gave false evidence.

Using as true a certificate known to be false.

198. Whoever corruptly uses or attempts to use any such certificate as a true certificate, knowing the same to be false in any material point, shall be punished in the same manner as if he gave false evidence.

False statement made in declaration which is by law receivable as evidence.

199. Whoever, in any declaration made or subscribed by him, which declaration any Court of Justice, or any public servant or other person, is bound or authorized by law to receive as evidence of any fact, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, touching any point material to the object for which the declaration is made or used, shall be punished in the same manner as if he gave false evidence.

Using as true such declaration knowing it to be false.

200. Whoever corruptly uses or attempts to use as true any such declaration knowing the same to be false in any material point, shall be punished in the same manner as if he gave false evidence.

Explanation.—A declaration which is inadmissible merely upon the ground of some informality, is a declaration within the meaning of sections 199 and 200.

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[a] See Act No. XXVII of 1870, sec. 7.

201. Whoever, knowing or having reason to believe that an offence has been committed, causes any evidence of the commission of that offence to disappear with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false, shall, if the offence which he knows or believes to have been committed is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and if the offence is punishable with transportation for life or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the offence is punishable with imprisonment for any term not extending to ten years, shall be punished with imprisonment of the description provided for the offence, for a term which may extend to one-fourth part of the longest term of the imprisonment provided for the offence, or with fine, or with both.

Causing disappearance of evidence of offence or giving false information to screen offender—

if a capital offence;

if punishable with transportation;

if punishable with less than ten years' imprisonment.

Illustration.

A, knowing that B has murdered Z, assists B to hide the body with the intention of screening B from punishment. A is liable to imprisonment of either description for seven years, and also to fine.

202. Whoever, knowing or having reason to believe that an offence has been committed, intentionally omits to give any information respecting that offence which he is legally bound to give, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Intentional omission to give information of offence, by person bound to inform.

203. Whoever, knowing or having reason to believe that an offence has been committed, gives any information respecting that offence which he knows or believes to be false, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Giving false information respecting an offence committed.

204. Whoever secretes or destroys any document which he may be lawfully compelled to produce as evidence in a Court of Justice, or in any proceeding lawfully held before a public servant as such, or obliterates or renders illegible the whole or any part of such document with the intention of preventing the same from being produced or used as evidence before such Court or public servant as aforesaid, or after he shall have been lawfully summoned or required to produce the same for that purpose, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Destruction of document to prevent its production as evidence.

False personation for purpose of act or proceeding in suit.

205. Whoever falsely personates another, and in such assumed character makes any admission or statement, or confesses judgment, or causes any process to be issued, or becomes bail or security, or does any other act in any suit or criminal prosecution, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Fraudulent removal or concealment of property to prevent its seizure as a forfeiture or in execution of a decree.

206. Whoever fraudulently removes, conceals, transfers or delivers to any person any property or any interest therein, intending thereby to prevent that property or interest therein from being taken as a forfeiture, or in satisfaction of a fine, under a sentence which has been pronounced or which he knows to be likely to be pronounced by a Court of Justice or other competent authority, or from being taken in execution of a decree or order which has been made or which he knows to be likely to be made by a Court of Justice in a civil suit, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Fraudulent claim to property to prevent its seizure as forfeited or in execution.

207. Whoever fraudulently accepts, receives, or claims any property or any interest therein, knowing that he has no right or rightful claim to such, property or interest, or practises any deception touching any right to any property or any interest therein, intending thereby to prevent that property or interest therein from being taken as a forfeiture or in satisfaction of a fine, under a sentence which has been pronounced or which he knows to be likely to be pronounced by a Court of Justice or other competent authority, or from being taken in execution of a decree or order which has been made or which he knows to be likely to be made by a Court of Justice in a civil suit, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Fraudulently suffering decree for sum not due.

208. Whoever fraudulently causes or suffers a decree or order to be passed against him at the suit of any person for a sum not due, or for a larger sum than is due to such person, or for any property or interest in property to which such person is not entitled, or fraudulently causes or suffers a decree or order to be executed against him after it has been satisfied, or for anything in respect of which it has been satisfied, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Illustration.

A institutes a suit against Z. Z, knowing that A is likely to obtain a decree against him, fraudulently suffers a judgment to pass against him for a larger amount at the suit of B, who has no just claim against him, in order that B, either on his own account or for the benefit of Z, may share in the proceeds of any sale of Z's

property which may be made under A's decree. Z has committed an offence under this section.

209. Whoever fraudulently or dishonestly, or with intent to injure or annoy any person, makes in a Court of Justice any claim which he knows to be false, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine.

Dishonestly making false claim in Court.

210. Whoever fraudulently obtains a decree or order against any person for a sum not due, or for a larger sum than is due, or for any property or interest in property to which he is not entitled, or fraudulently causes a decree or order to be executed against any person after it has been satisfied, or for anything in respect of which it has been satisfied, or fraudulently suffers or permits any such act to be done in his name, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Fraudulently obtaining decree for sum not due.

211. Whoever, with intent to cause injury to any person, institutes or causes to be instituted any criminal proceeding against that person, or falsely charges any person with having committed an offence, knowing that there is no just or lawful ground for such proceeding or charge against that person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both; and if such criminal proceeding be instituted on a false charge of an offence punishable with death, transportation for life, or imprisonment for seven years or upwards, shall be punishable with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

False charge of offence made with intent to injure.

212. Whenever an offence has been committed, whoever harbours or conceals a person whom he knows or has reason to believe to be the offender, with the intention of screening him from legal punishment, shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine; and if the offence is punishable with transportation for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the offence is punishable with imprisonment which may extend to one year and not to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

Harbouring an offender—

if a capital offence;

if punishable with transportation for life, or with imprisonment.

Exception.—This provision shall not extend to any case in which the harbour or concealment is by the husband or wife of the offender.

Illustration.

A, knowing that B has committed dacoity, knowingly conceals B in order to screen him from legal punishment. Here, as B is liable to transportation for life, A is liable to imprisonment of either description for a term not exceeding three years, and is also liable to fine.

Taking gift, &c., to screen an offender from punishment—

if a capital offence;

if punishable with transportation for life, or with imprisonment.

213. Whoever accepts, or attempts to obtain or agrees to accept, any gratification for himself or any other person, or any restitution of property to himself or any other person, in consideration of his concealing an offence or of his screening any person from legal punishment for any offence, or of his not proceeding against any person for the purpose of bringing him to legal punishment, shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and if the offence is punishable with transportation for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the offence is punishable with imprisonment not extending to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

Offering gift or restoration of property in consideration of screening offender—

if a capital offence;

if punishable with transportation for life, or with imprisonment.

214. Whoever gives or causes, or offers or agrees to give or cause, any gratification to any person, or to restore or cause the restoration of any property to any person, in consideration of that person's concealing an offence, or of his screening any person from legal punishment for any offence, or of his not proceeding against any person for the purpose of bringing him to legal punishment, shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and if the offence is punishable with transportation for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the offence is punishable with imprisonment not extending to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

Exception.—The provisions of sections 213 and 214 do not extend to any case in which the offence consists only of an act irrespective of the intention of the offender, and for which act the person injured may bring a civil action.

Illustrations.

(*a.*) A assaults B with intent to commit murder. Here, as the offence does not consist of the assault only, irrespective of the intention to commit murder, it does not fall within the exception, and cannot therefore be compounded.

(*b.*) A assaults B. Here, as the offence consists simply of the act irrespective of the intention of the offender, and as B may have a civil action for the assault, it is within the exception, and may be compounded.

(*c.*) A commits the offence of bigamy. Here, as the offence is not the subject of a civil action, it cannot be compounded.

(*d.*) B commits the offence of adultery with a married woman. The offence may be compounded.

Taking gift to help to recover stolen property, &c.

215. Whoever takes or agrees or consents to take any gratification under pretence or on account of helping any person to recover any moveable property of which he shall have been deprived by any offence punishable under this Code, shall, unless he uses all means in his power to cause the offender to be apprehended and convicted of the offence, be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Harbouring an offender who has escaped from custody, or whose apprehension has been ordered—

if a capital offence;

if punishable with transportation for life, or with imprisonment.

216. Whenever any person convicted of or charged with an offence, being in lawful custody for that offence, escapes from such custody, or whenever a public servant, in the exercise of the lawful powers of such public servant, orders a certain person to be apprehended for an offence, whoever, knowing of such escape or order for apprehension, harbours or conceals that person with the intention of preventing him from being apprehended, shall be punished in the manner following, that is to say, if the offence for which the person was in custody or is ordered to be apprehended is punishable with death, he shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine ; if the offence is punishable with transportation for life, or imprisonment for ten years, he shall be punished with imprisonment of either description for a term which may extend to three years, with or without fine ; and if the offence is punishable with imprisonment which may extend to one year and not to ten years, he shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of the imprisonment provided for such offence, or with fine, or with both.

Exception.—This provision does not extend to the case in which the harbour or concealment is by the husband or wife of the person to be apprehended.

Public servant disobeying a direction of law with intent to save person from punishment or property from forfeiture.

217. Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending thereby to save, or knowing it to be likely that he will thereby save, any person from legal punishment or subject him to a less punishment than that to which he is liable, or with intent to save, or knowing that he is likely thereby to save, any property from forfeiture or any charge to which it is liable by law, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Public servant framing incorrect record or writing with intent to save person from punishment or property from forfeiture.

218. Whoever, being a public servant, and being, as such public servant, charged with the preparation of any record or other writing, frames that record or writing in a manner which he knows to be incorrect, with intent to cause, or knowing it to be likely that he will thereby cause, loss or injury to the public or to any person, or with intent thereby to save, or knowing it to be likely that he will thereby save, any person from legal punishment, or with intent to save, or knowing that he is likely thereby to save, any property from forfeiture or other charge to which it is liable by law, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Public servant in judicial proceeding corruptly making report, &c., contrary to law.

219. Whoever, being a public servant, corruptly or maliciously makes or pronounces in any stage of a judicial proceeding, any report, order, verdict or decision which he knows to be contrary to law, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Commitment for trial or confinement by person having authority who knows he is acting contrary to law.

220. Whoever, being in any office which gives him legal authority to commit persons for trial or to confinement, or to keep persons in confinement, corruptly or maliciously commits any person for trial or to confinement, or keeps any person in confinement, in the exercise of that authority, knowing that in so doing he is acting contrary to law, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Intentional omission to apprehend on part of public servant bound to apprehend.

221. Whoever, being a public servant, legally bound as such public servant to apprehend or to keep in confinement any person charged with or liable to be apprehended for an offence, intentionally omits to apprehend such person, or intentionally suffers such person to escape, or intentionally aids such person in escaping or attempting to escape, from such confinement, shall be punished as follows, that is to say :—

Punishment.

with imprisonment of either description for a term which may extend to seven years, with or without fine, if the person in confinement, or who ought to have been apprehended, was charged with or liable to be apprehended for an offence punishable with death ; or

with imprisonment of either description for a term which may extend to three years, with or without fine, if the person in confinement, or who ought to have been apprehended, was charged with or liable to be apprehended for an offence punishable with transportation for life or imprisonment for a term which may extend to ten years; or

with imprisonment of either description for a term which may extend to two years, with or without fine, if the person in confinement, or who ought to have been apprehended, was charged with or liable to be apprehended for an offence punishable with imprisonment for a term less than ten years.

Intentional omission to apprehend on part of public servant bound to apprehend person under sentence or lawfully committed.

222. Whoever, being a public servant, legally bound as such public servant to apprehend or to keep in confinement any person under sentence of a Court of Justice for any offence or lawfully committed to custody,[a] intentionally omits to apprehend such person, or intentionally suffers such person to escape, or intentionally aids such person in escaping or attempting to escape, from such confinement, shall be punished as follows, that is to say :—

Punishment.

with transportation for life or with imprisonment of either description for a term which may extend to fourteen years, with or without fine, if the person in confinement, or who ought to have been apprehended, is under sentence of death; or

with imprisonment of either description for a term which may extend to seven years, with or without fine, if the person in confinement, or who ought to have been apprehended, is subject, by a sentence of a Court of Justice, or by virtue of a commutation of such sentence, to transportation for life or penal servitude for life, or to transportation or penal servitude or imprisonment for a term of ten years or upwards; or

with imprisonment of either description for a term which may extend to three years, or with fine, or with both, if the person in confinement, or who ought to have been apprehended, is subject, by a sentence of a Court of Justice, to imprisonment for a term not extending to ten years, or if the person was lawfully committed to custody.[b]

Escape from confinement or custody negligently suffered by a public servant.

223. Whoever, being a public servant legally bound as such public servant to keep in confinement any person charged with or convicted of any offence or lawfully committed to custody,[c] negligently suffers such person to escape from confinement, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

Resistance or obstruction by

224. Whoever intentionally offers any resistance or illegal obstruction to the lawful apprehension of himself for any offence with which he is charged

a, b, c See Act No. XXVII of 1870, section 8.

a person to his lawful apprehension.

or of which he has been convicted, or escapes or attempts to escape from any custody in which he is lawfully detained for any such offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Explanation.—The punishment in this section is in addition to the punishment for which the person to be apprehended or detained in custody was liable for the offence with which he was charged, or of which he was convicted.

Resistance or obstruction to lawful apprehension of another person.

Punishment.

225. Whoever intentionally offers any resistance or illegal obstruction to the lawful apprehension of any other person for an offence, or rescues or attempts to rescue any other person from any custody in which that person is lawfully detained for an offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both;

or, if the person to be apprehended, or the person rescued or attempted to be rescued, is charged with or liable to be apprehended for an offence punishable with transportation for life or imprisonment for a term which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

or, if the person to be apprehended, or rescued or attempted to be rescued, is charged with or liable to be apprehended for an offence punishable with death, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

or, if the person to be apprehended, or rescued or attempted to be rescued, is liable, under the sentence of a Court of Justice, or by virtue of a commutation of such a sentence, to transportation for life, or to transportation, penal servitude or imprisonment, for a term of ten years or upwards, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

or, if the person to be apprehended, or rescued or attempted to be rescued, is under sentence of death, shall be punished with transportation for life or imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

Escape from custody for failing to furnish security.

225A. Whoever escapes or attempts to escape from any custody in which he is lawfully detained for failing, under the Code of Criminal Procedure, to furnish security for good behaviour, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Unlawful return from

226. Whoever, having been lawfully transported, returns from such transportation, the term of such transportation not having expired, and his

punishment not having been remitted, shall be punished with transportation for life, and shall also be liable to fine, and to be imprisoned with rigorous imprisonment for a term not exceeding three years before he is so transported. transportation.

227. Whoever, having accepted any conditional remission of punishment, knowingly violates any condition on which such remission was granted, shall be punished with the punishment to which he was originally sentenced if he has already suffered no part of that punishment, and if he has suffered any part of that punishment, then with so much of that punishment as he has not already suffered. Violation of condition of remission of punishment.

228. Whoever intentionally offers any insult or causes any interruption to any public servant, while such public servant is sitting in any stage of a judicial proceeding, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both. Intentional insult or interruption to public servant sitting in any stage of a judicial proceeding.

229. Whoever, by personation or otherwise, shall intentionally cause or knowingly suffer himself to be returned, empanelled or sworn as a juryman or assessor in any case in which he knows that he is not entitled by law to be so returned, empanelled or sworn, or knowing himself to have been so returned, empanelled or sworn contrary to law, shall voluntarily serve on such jury or as such assessor, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. Personation of a juror or assessor.

CHAPTER XII.

Of Offences relating to Coin and Government Stamps.

230. Coin is metal used for the time being as money, and stamped and issued by the authority of some State or Sovereign Power in order to be so used.[a] 'Coin' defined.

Coin stamped and issued by the authority of the Queen, or by the authority of the Government of India, or of the Government of any presidency, or of any Government in the Queen's dominions, is the Queen's coin. Queen's coin.

Illustrations.

(*a*). Cowries are not coin.

(*b*). Lumps of unstamped copper, though used as money, are not coin.

(*c*). Medals are not coin, inasmuch as they are not intended to be used as money.

(*d*). The coin denominated as the Company's rupee is the Queen's coin.

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[a] See Act No. XIX of 1872.

Counterfeiting coin.

231. Whoever counterfeits or knowingly performs any part of the process of counterfeiting coin, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Explanation.—A person commits this offence, who, intending to practise deception, or knowing it to be likely that deception will thereby be practised, causes a genuine coin to appear like a different coin.

Counterfeiting the Queen's coin.

232. Whoever counterfeits or knowingly performs any part of the process of counterfeiting the Queen's coin, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Making or selling instrument for counterfeiting coin.

233. Whoever makes or mends, or performs any part of the process of making or mending, or buys, sells or disposes of, any die or instrument, for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting coin, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Making or selling instrument for counterfeiting Queen's coin.

234. Whoever makes or mends, or performs any part of the process of making or mending, or buys, sells or disposes of, any die or instrument, for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting the Queen's coin, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Possession of instrument or material for the purpose of using the same for counterfeiting coin.

235. Whoever is in possession of any instrument or material for the purpose of using the same for counterfeiting coin, or knowing or having reason to believe that the same is intended to be used for that purpose, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the coin to be counterfeited is the Queen's coin, shall be punished with imprisonment of either description which may extend to ten years, and shall also be liable to fine.

Abetting in India the counterfeiting out of India of coin.

236. Whoever, being within British India, abets the counterfeiting of coin out of British India, shall be punished in the same manner as if he abetted the counterfeiting of such coin within British India.

Import or export of counterfeit coin.

237. Whoever imports into British India, or exports therefrom, any counterfeit coin, knowing or having reason to believe that the same is counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Import or export of counterfeits of the

238. Whoever imports into British India, or exports therefrom, any counterfeit coin which he knows or has reason to believe to be a counterfeit

of the Queen's coin, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Queen's coin.

239. Whoever, having any counterfeit coin which at the time when he became possessed of it he knew to be counterfeit, fraudulently or with intent that fraud may be committed, delivers the same to any person, or attempts to induce any person to receive it, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

Delivery to another of coin, possessed with the knowledge that it is counterfeit.

240. Whoever, having any counterfeit coin which is a counterfeit of the Queen's coin, and which at the time when he became possessed of it he knew to be a counterfeit of the Queen's coin, fraudulently or with intent that fraud may be committed, delivers the same to any person, or attempts to induce any person to receive it, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Delivery of Queen's coin, possessed with the knowledge that it is counterfeit.

241. Whoever delivers to any other person as genuine, or attempts to induce any other person to receive as genuine, any counterfeit coin which he knows to be counterfeit, but which he did not know to be counterfeit at the time when he took it into his possession, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine to an amount which may extend to ten times the value of the coin counterfeited, or with both.

Delivery to another of coin as genuine, which, when first possessed, the deliverer did not know to be counterfeit.

Illustration.

A, a coiner, delivers counterfeit Company's rupees to his accomplice B, for the purpose of uttering them. B sells the rupees to C, another utterer, who buys them knowing them to be counterfeit. C pays away the rupees for goods to D, who receives them, not knowing them to be counterfeit. D, after receiving the rupees, discovers that they are counterfeit and pays them away as if they were good. Here D is punishable only under this section, but B and C are punishable under section 239 or 240, as the case may be.

242. Whoever, fraudulently or with intent that fraud may be committed, is in possession of counterfeit coin, having known at the time when he became possessed thereof that such coin was counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Possession of counterfeit coin by person who knew it to be counterfeit when he became possessed thereof.

243. Whoever, fraudulently or with intent that fraud may be committed, is in possession of counterfeit coin which is a counterfeit of the Queen's coin, having known at the time when he became possessed of it that it was

Possession of Queen's coin by a person who knew it

to be counterfeit when he became possessed thereof.

counterfeit, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Person employed in mint causing coin to be of different weight or composition from that fixed by law.

244. Whoever, being employed in any mint lawfully established in British India, does any act, or omits what he is legally bound to do, with the intention of causing any coin issued from that mint to be of a different weight or composition from the weight or composition fixed by law, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Unlawfully taking from a mint any coining instrument.

245. Whoever, without lawful authority, takes out of any mint lawfully established in British India, any coining tool or instrument, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Fraudulently or dishonestly diminishing weight or altering composition of coin.

246. Whoever fraudulently or dishonestly performs on any coin any operation which diminishes the weight or alters the composition of that coin, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Explanation.—A person who scoops out part of the coin and puts anything else into the cavity, alters the composition of that coin.

Fraudulently or dishonestly diminishing weight or altering composition of Queen's coin.

247. Whoever fraudulently or dishonestly performs on any of the Queen's coin any operation which diminishes the weight or alters the composition of that coin, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Altering appearance of coin with intent that it shall pass as coin of different description.

248. Whoever performs on any coin any operation which alters the appearance of that coin with the intention that the said coin shall pass as a coin of a different description, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Altering appearance of Queen's coin with intent that it shall pass as coin of different description.

249. Whoever performs on any of the Queen's coin any operation which alters the appearance of that coin, with the intention that the said coin shall pass as a coin of a different description, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Delivery to another of coin possessed with knowledge that it is altered.

250. Whoever, having coin in his possession with respect to which the offence defined in section 246 or 248 has been committed, and having known at the time when he became possessed of such coin that such offence had been committed with respect to it, fraudulently or with intent that fraud may be committed, delivers such coin to any other person, or attempts to induce any other

person to receive the same, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

251. Whoever, having coin in his possession with respect to which the offence defined in section 247 or 249 has been committed, and having known at the time when he became possessed of such coin that such offence had been committed with respect to it, fraudulently or with intent that fraud may be committed, delivers such coin to any other person, or attempts to induce any other person to receive the same, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Delivery of Queen's coin possessed with the knowledge that it is altered.

252. Whoever, fraudulently or with intent that fraud may be committed, is in possession of coin with respect to which the offence defined in either of the sections 246 or 248 has been committed, having known at the time of becoming possessed thereof that such offence had been committed with respect to such coin, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Possession of altered coin by a person who knew it to be altered when he became possessed thereof.

253. Whoever, fraudulently or with intent that fraud may be committed, is in possession of coin with respect to which the offence defined in either of the sections 247 or 249 has been committed, having known at the time of becoming possessed thereof that such offence had been committed with respect to such coin, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

Possession of Queen's coin by a person who knew it to be altered when he became possessed thereof.

254. Whoever delivers to any other person as genuine or as a coin of a different description from what it is, or attempts to induce any person to receive as genuine or as a different coin from what it is, any coin in respect of which he knows that any such operation as that mentioned in sections 246, 247, 248 or 249 has been performed, but in respect of which he did not, at the time when he took it into his possession, know that such operation had been performed, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine to an amount which may extend to ten times the value of the coin for which the altered coin is passed or attempted to be passed.

Delivery to another of coin as genuine, which, when first possessed, the deliverer did not know to be altered.

255. Whoever counterfeits, or knowingly performs any part of the process of counterfeiting, any stamp issued by Government for the purpose of revenue, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Counterfeiting a Government stamp.

Explanation.—A person commits this offence who counterfeits by causing a genuine stamp of one denomination to appear like a genuine stamp of a different denomination.

Having possession of instrument or material for purpose of counterfeiting Government stamp.

256. Whoever has in his possession any instrument or material for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Making or selling instrument for purpose of counterfeiting Government stamp.

257. Whoever makes, or performs any part of the process of making, or buys, or sells, or disposes of, any instrument for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Sale of counterfeit Government stamp.

258. Whoever sells, or offers for sale, any stamp which he knows or has reason to believe to be a counterfeit of any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Having possession of counterfeit Government stamp.

259. Whoever has in his possession any stamp which he knows to be a counterfeit of any stamp issued by Government for the purpose of revenue, intending to use or dispose of the same as a genuine stamp, or in order that it may be used as a genuine stamp, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Using as genuine Government stamp known to be counterfeit.

260. Whoever uses as genuine any stamp, knowing it to be a counterfeit of any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Effacing writing from substance bearing Government stamp, or removing from document a stamp used for it, with intent to cause loss to Government.

261. Whoever, fraudulently or with intent to cause loss to the Government, removes or effaces from any substance bearing any stamp issued by Government for the purpose of revenue, any writing or document for which such stamp has been used, or removes from any writing or document a stamp which has been used for such writing or document, in order that such stamp may be used for a different writing or document, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Using a Government stamp known to have been before used.

262. Whoever, fraudulently or with intent to cause loss to the Government, uses for any purpose a stamp issued by Government for the purpose of revenue, which he knows to have been before used, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

263. Whoever, fraudulently or with intent to cause loss to Government, erases or removes from a stamp issued by Government for the purpose of revenue, any mark put or impressed upon such stamp for the purpose of denoting that the same has been used, or knowingly has in his possession, or sells or disposes of, any such stamp from which such mark has been erased or removed, or sells or disposes of any such stamp which he knows to have been used, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Erasure of mark denoting that stamp has been used.

CHAPTER XIII.

Of Offences relating to Weights and Measures.

264. Whoever fraudulently uses any instrument for weighing which he knows to be false, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Fraudulent use of false instrument for weighing.

265. Whoever fraudulently uses any false weight or false measure of length or capacity, or fraudulently uses any weight or any measure of length or capacity as a different weight or measure from what it is, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Fraudulent use of false weight or measure.

266. Whoever is in possession of any instrument for weighing, or of any weight, or of any measure of length or capacity, which he knows to be false, and intending that the same may be fraudulently used, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Being in possession of false weights or measures.

267. Whoever makes, sells or disposes of, any instrument for weighing, or any weight, or any measure of length or capacity which he knows to be false, in order that the same may be used as true, or knowing that the same is likely to be used as true, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Making or selling false weights or measures.

CHAPTER XIV.

Of Offences affecting the Public Health, Safety, Convenience, Decency and Morals.

268. A person is guilty of a public nuisance, who does any act, or is guilty of an illegal omission, which causes any common injury, danger or annoyance to the public or to the people in general who dwell or occupy property in the vicinity, or which must necessarily cause injury, obstruc-

Public nuisance.

tion, danger or annoyance to persons who may have occasion to use any public right.

A common nuisance is not excused on the ground that it causes some convenience or advantage.

Negligent act likely to spread infection of any disease dangerous to life.

269. Whoever unlawfully or negligently does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Malignant act likely to spread infection of any disease dangerous to life.

270. Whoever malignantly does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Disobedience to a quarantine-rule.

271. Whoever knowingly disobeys any rule made and promulgated by the Government of India, or by any Government, for putting any vessel into a state of quarantine, or for regulating the intercourse of vessels in a state of quarantine with the shore or with other vessels, or for regulating the intercourse between places where an infectious disease prevails and other places,[a] shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Adulteration of food or drink intended for sale.

272. Whoever adulterates any article of food or drink, so as to make such article noxious as food or drink, intending to sell such article as food or drink, or knowing it to be likely that the same will be sold as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Sale of noxious food or drink.

273. Whoever sells, or offers or exposes for sale, as food or drink, any article which has been rendered or has become noxious, or is in a state unfit for food or drink, knowing or having reason to believe that the same is noxious as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Adulteration of drugs.

274. Whoever adulterates any drug or medical preparation in such a manner as to lessen the efficacy or change the operation of such drug or medical preparation, or to make it noxious, intending that it shall be sold or used for, or knowing it to be likely that it will be sold or used for any medicinal purpose, as if it had not undergone such adulteration, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

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[a] See Act No. I of 1870 *(to provide rules relating to quarantine)*

275. Whoever, knowing any drug or medical preparation to have been adulterated in such a manner as to lessen its efficacy, to change its operation, or to render it noxious, sells the same, or offers or exposes it for sale, or issues it from any dispensary for medicinal purposes as unadulterated, or causes it to be used for medicinal purposes by any person not knowing of the adulteration, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both. **Sale of adulterated drugs.**

276. Whoever knowingly sells, or offers or exposes for sale, or issues from a dispensary for medicinal purposes, any drug or medical preparation as a different drug or medical preparation, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both. **Sale of any drug as a different drug or preparation.**

277. Whoever voluntarily corrupts or fouls the water of any public spring or reservoir, so as to render it less fit for the purpose for which it is ordinarily used, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both. **Fouling the water of a public spring or reservoir.**

278. Whoever voluntarily vitiates the atmosphere in any place so as to make it noxious to the health of persons in general dwelling or carrying on business in the neighbourhood or passing along a public way, shall be punished with fine which may extend to five hundred rupees. **Making atmosphere noxious to health.**

279. Whoever drives any vehicle, or rides, on any public way in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both. **Rash driving or riding on a public way.**

280. Whoever navigates any vessel in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both. **Rash navigation of a vessel.**

281. Whoever exhibits any false light, mark or buoy, intending or knowing it to be likely that such exhibition will mislead any navigator, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both. **Exhibition of a false light, mark or buoy.**

282. Whoever knowingly or negligently conveys, or causes to be conveyed for hire, any person by water in any vessel, when that vessel is in such a state or so loaded as to endanger the life of that person, shall be punished **Conveying person by water for hire in a vessel**

overloaded or unsafe.

with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Danger or obstruction in a public way or navigation.

283. Whoever, by doing any act, or by omitting to take order with any property in his possession or under his charge, causes danger, obstruction or injury to any person in any public way or public line of navigation, shall be punished with fine which may extend to two hundred rupees.

Negligent conduct with respect to any poisonous substance.

284. Whoever does, with any poisonous substance, any act in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, or knowingly or negligently omits to take such order with any poisonous substance in his possession as is sufficient to guard against any probable danger to human life from such poisonous substance, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Negligent conduct with respect to fire or combustible matter.

285. Whoever does, with fire or any combustible matter, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person, or knowingly or negligently omits to take such order with any fire or any combustible matter in his possession as is sufficient to guard against any probable danger to human life from such fire or combustible matter, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Negligent conduct with respect to explosive substance.

286. Whoever does, with any explosive substance, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person, or knowingly or negligently omits to take such order with any explosive substance in his possession as is sufficient to guard against any probable danger to human life from that substance, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Negligent conduct with respect to machinery in possession or under charge of offender.

287. Whoever does, with any machinery, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person, or knowingly or negligently omits to take such order with any machinery in his possession or under his care as is sufficient to guard against any probable danger to human life from such machinery, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Negligence with respect

288. Whoever, in pulling down or repairing any building, knowingly or negligently omits to take such order with that building as is sufficient to

guard against any probable danger to human life from the fall of that building, or of any part thereof, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

to pulling down or repairing buildings.

289. Whoever knowingly or negligently omits to take such order with any animal in his possession as is sufficient to guard against any probable danger to human life, or any probable danger of grievous hurt from such animal, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Negligence with respect to animals.

290. Whoever commits a public nuisance in any case not otherwise punishable by this Code, shall be punished with fine which may extend to two hundred rupees.

Punishment for public nuisance.

291. Whoever repeats or continues a public nuisance, having been enjoined by any public servant who has lawful authority to issue such injunction not to repeat or continue such nuisance, shall be punished with simple imprisonment for a term which may extend to six months, or with fine, or with both.

Continuance of nuisance after injunction to discontinue.

292. Whoever sells or distributes, imports or prints for sale or hire, or wilfully exhibits to public view, any obscene book, pamphlet, paper, drawing, painting, representation or figure, or attempts or offers so to do, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

Sale, &c., of obscene books.

Exception.—This section does not extend to any representation sculptured, engraved, painted, or otherwise represented, on or in any temple, or on any car used for the conveyance of idols, or kept or used for any religious purpose.

293. Whoever has in his possession any such obscene book or other thing as is mentioned in the last preceding section for the purpose of sale, distribution, or public exhibition, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

Having in possession obscene book for sale or exhibition.

294. Whoever sings, recites or utters in or near any public place any obscene song, ballad or words to the annoyance of others, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

Obscene songs.

294A. Whoever keeps any office or place for the purpose of drawing any lottery not authorised by Government, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Keeping lottery-office.

And whoever publishes any proposal to pay any sum, or to deliver any goods, or to do or forbear doing anything for the benefit of any person, on any event or contingency relative or applicable to the drawing of any ticket, lot, number or figure in any such lottery, shall be punished with fine which may extend to one thousand rupees.[a]

CHAPTER XV.

OF OFFENCES RELATING TO RELIGION.

Injuring or defiling place of worship, with intent to insult the religion of any class.

295. Whoever destroys, damages or defiles any place of worship, or any object held sacred by any class of persons, with the intention of thereby insulting the religion of any class of persons or with the knowledge that any class of persons is likely to consider such destruction, damage or defilement as an insult to their religion, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Disturbing religious assembly.

296. Whoever voluntarily causes disturbance to any assembly lawfully engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Trespassing on burial-places, &c.

297. Whoever, with the intention of wounding the feelings of any person, or of insulting the religion of any person, or with the knowledge that the feelings of any person are likely to be wounded, or that the religion of any person is likely to be insulted thereby, commits any trespass in any place of worship or on any place of sepulture or any place set apart for the performance of funeral rites, or as a depository for the remains of the dead, or offers any indignity to any human corpse, or causes disturbance to any persons assembled for the performance of funeral ceremonies, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Uttering words, &c., with deliberate intent to wound the religious feelings of any person.

298. Whoever, with deliberate intention of wounding the religious feelings of any person, utters any word or makes any sound in the hearing of that person, or makes any gesture in the sight of that person, or places any object in the sight of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

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[a] See Act No. XXVII of 1870, section 10.

CHAPTER XVI.

Of Offences affecting the Human Body.

Of Offences affecting Life.

299. Whoever causes death by doing an act with the intention of causing death, or with the intention of causing such bodily injury as is likely to cause death, or with the knowledge that he is likely by such act to cause death, commits the offence of culpable homicide. Culpable homicide.

Illustrations.

(*a*). A lays sticks and turf over a pit, with the intention of thereby causing death, or with the knowledge that death is likely to be thereby caused. Z, believing the ground to be firm, treads on it, falls in and is killed. A has committed the offence of culpable homicide.

(*b*). A knows Z to be behind a bush. B does not know it. A, intending to cause, or knowing it to be likely to cause, Z's death, induces B to fire at the bush. B fires and kills Z. Here B may be guilty of no offence; but A has committed the offence of culpable homicide.

(*c*). A, by shooting at a fowl with intent to kill and steal it, kills B, who is behind a bush; A not knowing that he was there. Here, although A was doing an unlawful act, he was not guilty of culpable homicide, as he did not intend to kill B, or to cause death by doing an act that he knew was likely to cause death.

Explanation 1.—A person who causes bodily injury to another who is labouring under a disorder, disease or bodily infirmity, and thereby accelerates the death of that other, shall be deemed to have caused his death.

Explanation 2.—Where death is caused by bodily injury, the person who causes such bodily injury shall be deemed to have caused the death, although by resorting to proper remedies and skilful treatment the death might have been prevented.

Explanation 3.—The causing of the death of a child in the mother's womb is not homicide. But it may amount to culpable homicide to cause the death of a living child, if any part of that child has been brought forth, though the child may not have breathed or been completely born.

300. Except in the cases hereinafter excepted, culpable homicide is murder, if the act by which the death is caused is done with the intention of causing death, or Murder.

2ndly, if it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused, or

3rdly, if it is done with the intention of causing bodily injury to any person, and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death, or

4thly, if the person committing the act knows that it is so imminently dangerous that it must in all probability cause death, or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid.

Illustrations.

(*a*). A shoots Z with the intention of killing him. Z dies in consequence. A commits murder.

(*b*). A, knowing that Z is labouring under such a disease that a blow is likely to cause his death, strikes him with the intention of causing bodily injury. Z dies in consequence of the blow. A is guilty of murder, although the blow might not have been sufficient in the ordinary course of nature to cause the death of a person in a sound state of health. But if A, not knowing that Z is labouring under any disease, gives him such a blow as would not in the ordinary course of nature kill a person in a sound state of health, here A, although he may intend to cause bodily injury, is not guilty of murder, if he did not intend to cause death, or such bodily injury as in the ordinary course of nature would cause death.

(*c*). A intentionally gives Z a sword-cut or club-wound sufficient to cause the death of a man in the ordinary course of nature. Z dies in consequence. Here A is guilty of murder, although he may not have intended to cause Z's death.

(*d*). A without any excuse fires a loaded cannon into a crowd of persons and kills one of them. A is guilty of murder, although he may not have had a premeditated design to kill any particular individual.

When culpable homicide is not murder.

Exception 1.—Culpable homicide is not murder if the offender, whilst deprived of the power of self-control by grave and sudden provocation, causes the death of the person who gave the provocation, or causes the death of any other person by mistake or accident.

The above exception is subject to the following provisoes :—

First.—That the provocation is not sought or voluntarily provoked by the offender as an excuse for killing or doing harm to any person.

Secondly.—That the provocation is not given by anything done in obedience to the law, or by a public servant in the lawful exercise of the powers of such public servant.

Thirdly.—That the provocation is not given by anything done in the lawful exercise of the right of private defence.

Explanation.—Whether the provocation was grave and sudden enough to prevent the offence from amounting to murder, is a question of fact.

Illustrations.

(*a*). A, under the influence of passion excited by a provocation given by Z, intentionally kills Y, Z's child. This is murder, inasmuch as the provocation was not given by the child, and the death of the child was not caused by accident or misfortune in doing an act caused by the provocation.

(*b*). Y gives grave and sudden provocation to A. A, on this provocation, fires a pistol at Y, neither intending nor knowing himself to be likely to kill Z, who is near him, but out of sight. A kills Z. Here A has not committed murder, but merely culpable homicide.

(*c*). A is lawfully arrested by Z, a bailiff. A is excited to sudden and violent passion by the arrest, and kills Z. This is murder, inasmuch as the provocation was given by a thing done by a public servant in the exercise of his powers.

(*d*). A appears as a witness before Z, a Magistrate. Z says that he does not believe a word of A's deposition, and that A has perjured himself. A is moved to sudden passion by these words, and kills Z. This is murder.

(*e*). A attempts to pull Z's nose. Z, in the exercise of the right of private defence, lays hold of A to prevent him from doing so. A is moved to sudden and violent passion in consequence, and kills Z. This is murder, inasmuch as the provocation was given by a thing done in the exercise of the right of private defence.

(*f*). Z strikes B. B is by this provocation excited to violent rage. A, a bystander, intending to take advantage of B's rage, and to cause him to kill Z, puts a knife into B's hand for that purpose. B kills Z with the knife. Here B may have committed only culpable homicide, but A is guilty of murder.

Exception 2.—Culpable homicide is not murder if the offender, in the exercise in good faith of the right of private defence of person or property, exceeds the power given to him by law, and causes the death of the person against whom he is exercising such right of defence, without premeditation and without any intention of doing more harm than is necessary for the purpose of such defence.

Illustration.

Z attempts to horse-whip A, not in such a manner as to cause grievous hurt to A. A draws out a pistol. Z persists in the assault. A, believing in good faith that he can by no other means prevent himself from being horse-whipped, shoots Z dead. A has not committed murder, but only culpable homicide.

Exception 3.—Culpable homicide is not murder if the offender, being a public servant, or aiding a public servant acting for the advancement of public justice, exceeds the powers given to him by law, and causes death by doing an act which he, in good faith, believes to be lawful and necessary for the due discharge of his duty as such public servant, and without ill-will towards the person whose death is caused.

Exception 4.—Culpable homicide is not murder if it is committed without premeditation in a sudden fight in the heat of passion upon a sudden quarrel, and without the offender having taken undue advantage or acted in a cruel or unusual manner.

Explanation.—It is immaterial in such cases which party offers the provocation or commits the first assault.

Exception 5.—Culpable homicide is not murder when the person whose death is caused, being above the age of eighteen years, suffers death, or takes the risk of death with his own consent.

Illustration.

A, by instigation, voluntarily causes Z, a person under eighteen years of age, to commit suicide. Here, on account of Z's youth, he was incapable of giving consent to his own death; A has therefore abetted murder.

Culpable homicide by causing death of person other than person whose death was intended.

301. If a person, by doing anything which he intends or knows to be likely to cause death, commits culpable homicide by causing the death of any person whose death he neither intends nor knows himself to be likely to cause, the culpable homicide committed by the offender is of the description of which it would have been if he had caused the death of the person whose death he intended or knew himself to be likely to cause.

Punishment for murder.

302. Whoever commits murder shall be punished with death, or transportation for life, and shall also be liable to fine.

Punishment for murder by life-convict

303. Whoever being under sentence of transportation for life, commits murder, shall be punished with death.

Punishment for culpable homicide not amounting to murder.

304. Whoever commits culpable homicide not amounting to murder shall be punished with transportation for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine, if the act by which the death is caused is done with the intention of causing death, or of causing such bodily injury as is likely to cause death; or with imprisonment of either description for a term which may extend to ten years, or with fine, or with both, if the act is done with the knowledge that it is likely to cause death, but without any intention to cause death, or to cause such bodily injury as is likely to cause death.

Causing death by negligence.

304A. Whoever causes the death of any person by doing any rash or negligent act not amounting to culpable homicide, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.[a]

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[a] See Act No. XXVII of 1870, section 12.

305. If any person under eighteen years of age, any insane person, any delirious person, any idiot or any person in a state of intoxication, commits suicide, whoever abets the commission of such suicide, shall be punished with death or transportation for life, or imprisonment for a term not exceeding ten years, and shall also be liable to fine.

Abetment of suicide of child or insane person.

306. If any person commits suicide, whoever abets the commission of such suicide shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Abetment of suicide.

307. Whoever does any act with such intention or knowledge and under such circumstances that if he by that act caused death he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if hurt is caused to any person by such act, the offender shall be liable either to transportation for life, or to such punishment as is hereinbefore mentioned.

Attempt to murder.

When any person offending under this section is under sentence of transportation for life, he may, if hurt is caused, be punished with death.[a]

Attempts by life-convicts.

Illustrations.

(*a*). A shoots at Z with intention to kill him, under such circumstances that, if death ensued, A would be guilty of murder. A is liable to punishment under this section.

(*b*). A, with the intention of causing the death of a child of tender years, exposes it in a desert place. A has committed the offence defined by this section, though the death of the child does not ensue.

(*c*). A, intending to murder Z, buys a gun and loads it. A has not yet committed the offence. A fires the gun at Z. He has committed the offence defined in this section; and if by such firing he wounds Z, he is liable to the punishment provided by the latter part of this section.

(*d*). A, intending to murder Z by poison, purchases poison and mixes the same with food which remains in A's keeping; A has not yet committed the offence defined in this section. A places the food on Z's table or delivers it to Z's servants to place it on Z's table. A has committed the offence defined in this section.

308. Whoever does any act with such intention or knowledge and under such circumstances that if he by that act caused death he would be guilty of culpable homicide not amounting to murder, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and if hurt is caused to any person by such act, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Attempt to commit culpable homicide.

[a] See Act No. XXVII of 1870, section 11.

Illustration.

A, on grave and sudden provocation, fires a pistol at Z, under such circumstances that if he thereby caused death he would be guilty of culpable homicide not amounting to murder. A has committed the offence defined in this section.

Attempt to commit suicide.

309. Whoever attempts to commit suicide, and does any act towards the commission of such offence, shall be punished with simple imprisonment for a term which may extend to one year, and shall also be liable to fine.

Thug.

310. Whoever at any time after the passing of this Act shall have been habitually associated with any other or others for the purpose of committing robbery or child-stealing by means of or accompanied with murder, is a Thug.

Punishment.

311. Whoever is a Thug shall be punished with transportation for life, and shall also be liable to fine.

Of the causing of Miscarriage, of Injuries to unborn Children, of the Exposure of Infants, and of the Concealment of Births.

Causing miscarriage.

312. Whoever voluntarily causes a woman with child to miscarry, shall, if such miscarriage be not caused in good faith for the purpose of saving the life of the woman, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and if the woman be quick with child, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Explanation.—A woman who causes herself to miscarry is within the meaning of this section.

Causing miscarriage without woman's consent.

313. Whoever commits the offence defined in the last preceding section without the consent of the woman, whether the woman is quick with child or not, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Death caused by act done with intent to cause miscarriage—if act done without woman's consent

314. Whoever, with intent to cause the miscarriage of a woman with child, does any act which causes the death of such woman, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if the act is done without the consent of the woman, shall be punished either with transportation for life, or with the punishment above mentioned.

Explanation.—It is not essential to this offence that the offender should know that the act is likely to cause death.

315. Whoever before the birth of any child does any act with the intention of thereby preventing that child from being born alive, or causing it to die after its birth, and does by such act prevent that child from being born alive, or causes it to die after its birth, shall, if such act be not caused in good faith for the purpose of saving the life of the mother, be punished with imprisonment of either description for a term which may extend to ten years, or with fine, or with both.

Act done with intent to prevent child being born alive or to cause it to die after birth.

316. Whoever does any act under such circumstances that if he thereby caused death he would be guilty of culpable homicide, and does by such act cause the death of a quick unborn child, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Causing death of quick unborn child by an act amounting to culpable homicide.

Illustration.

A, knowing that he is likely to cause the death of a pregnant woman, does an act which, if it caused the death of the woman, would amount to culpable homicide. The woman is injured, but does not die; but the death of an unborn quick child with which she is pregnant is thereby caused. A is guilty of the offence defined in this section.

317. Whoever, being the father or mother of a child under the age of twelve years, or having the care of such child, shall expose or leave such child in any place with the intention of wholly abandoning such child, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Exposure and abandonment of child under twelve years, by parent, or person having care of it.

Explanation.—This section is not intended to prevent the trial of the offender for murder or culpable homicide, as the case may be, if the child die in consequence of the exposure.

318. Whoever, by secretly burying or otherwise disposing of the dead body of a child, whether such child die before or after or during its birth, intentionally conceals or endeavours to conceal the birth of such child, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Concealment of birth by secret disposal of dead body.

Of Hurt.

319. Whoever causes bodily pain, disease or infirmity to any person is said to cause hurt.

Hurt.

320. The following kinds of hurt only are designated as "grievous":—

Grievous hurt.

First.—Emasculation.

Secondly.—Permanent privation of the sight of either eye.

Thirdly.—Permanent privation of the hearing of either ear.

Fourthly.—Privation of any member or joint.

Fifthly.—Destruction or permanent impairing of the powers of any member or joint.

Sixthly.—Permanent disfiguration of the head or face.

Seventhly.—Fracture or dislocation of a bone or tooth.

Eighthly.—Any hurt which endangers life, or which causes the sufferer to be, during the space of twenty days, in severe bodily pain, or unable to follow his ordinary pursuits.

Voluntarily causing hurt.

321. Whoever does any act with the intention of thereby causing hurt to any person, or with the knowledge that he is likely thereby to cause hurt to any person, and does thereby cause hurt to any person, is said "voluntarily to cause hurt."

Voluntarily causing grievous hurt.

322. Whoever voluntarily causes hurt, if the hurt which he intends to cause or knows himself to be likely to cause is grievous hurt, and if the hurt which he causes is grievous hurt, is said "voluntarily to cause grievous hurt."

Explanation.—A person is not said voluntarily to cause grievous hurt except when he both causes grievous hurt and intends or knows himself to be likely to cause grievous hurt. But he is said voluntarily to cause grievous hurt if, intending or knowing himself to be likely to cause grievous hurt of one kind, he actually causes grievous hurt of another kind.

Illustration.

A, intending or knowing himself to be likely permanently to disfigure Z's face, gives Z a blow which does not permanently disfigure Z's face, but which causes Z to suffer severe bodily pain for the space of twenty days. A has voluntarily caused grievous hurt.

Punishment for voluntarily causing hurt.

323. Whoever, except in the case provided for by section 334, voluntarily causes hurt, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

Voluntarily causing hurt by dangerous weapons or means.

324. Whoever, except in the case provided for by section 334, voluntarily causes hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance, or by means of any substance which it is deleterious to the human body to inhale, to swallow or to receive into the blood, or by means of any animal, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

325. Whoever, except in the case provided by section 335, voluntarily causes grievous hurt, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Punishment for voluntarily causing grievous hurt.

326. Whoever, except in the case provided by section 335, voluntarily causes grievous hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance, or by means of any substance which it is deleterious to the human body to inhale, to swallow or to receive into the blood, or by means of any animal, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Voluntarily causing grievous hurt by dangerous weapons or means.

327. Whoever voluntarily causes hurt for the purpose of extorting from the sufferer, or from any person interested in the sufferer, any property or valuable security, or of constraining the sufferer or any person interested in such sufferer to do anything which is illegal or which may facilitate the commission of an offence, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Voluntarily causing hurt to extort property, or to constrain to an illegal act.

328. Whoever administers to, or causes to be taken by, any person any poison or any stupefying, intoxicating or unwholesome drug or other thing, with intent to cause hurt to such person, or with intent to commit or to facilitate the commission of an offence, or knowing it to be likely that he will thereby cause hurt, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Causing hurt by means of poison, &c., with intent to commit an offence.

329. Whoever voluntarily causes grievous hurt for the purpose of extorting from the sufferer, or from any person interested in the sufferer, any property or valuable security, or of constraining the sufferer or any person interested in such sufferer to do anything which is illegal, or which may facilitate the commission of an offence, shall be punished with transportation for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Voluntarily causing grievous hurt to extort property, or to constrain to an illegal act.

330. Whoever voluntarily causes hurt for the purpose of extorting from the sufferer, or from any person interested in the sufferer, any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the sufferer or any person interested in

Voluntarily causing hurt to extort confession, or to

compel restoration of property.

the sufferer to restore or to cause the restoration of any property or valuable security, or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Illustrations.

(*a*). A, a Police officer, tortures Z in order to induce Z to confess that he committed a crime. A is guilty of an offence under this section.

(*b*). A, a Police officer, tortures B to induce him to point out where certain stolen property is deposited. A is guilty of an offence under this section.

(*c*). A, a revenue officer, tortures Z in order to compel him to pay certain arrears of revenue due from Z. A is guilty of an offence under this section.

(*d*). A, a zamíndár, tortures a ryot in order to compel him to pay his rent. A is guilty of an offence under this section.

Voluntarily causing grievous hurt to extort confession, or to compel restoration of property.

331. Whoever voluntarily causes grievous hurt for the purpose of extorting from the sufferer, or from any person interested in the sufferer, any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the sufferer or any person interested in the sufferer to restore or to cause the restoration of any property or valuable security, or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Voluntarily causing hurt to deter public servant from his duty.

332. Whoever voluntarily causes hurt to any person being a public servant in the discharge of his duty as such public servant, or with intent to prevent or deter that person or any other public servant from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by that person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Voluntarily causing grievous hurt to deter public servant from his duty.

333. Whoever voluntarily causes grievous hurt to any person being a public servant in the discharge of his duty as such public servant, or with intent to prevent or deter that person or any other public servant from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by that person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

334. Whoever voluntarily causes hurt on grave and sudden provocation, if he neither intends nor knows himself to be likely to cause hurt to any person other than the person who gave the provocation, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

Voluntarily causing hurt on provocation.

335. Whoever causes grievous hurt on grave and sudden provocation, if he neither intends nor knows himself to be likely to cause grievous hurt to any person other than the person who gave the provocation, shall be punished with imprisonment of either description for a term which may extend to four years, or with fine which may extend to two thousand rupees, or with both.

Causing grievous hurt on provocation.

Explanation.—The last two sections are subject to the same provisoes as Exception 1, section 300.

336. Whoever does any act so rashly or negligently as to endanger human life or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to two hundred and fifty rupees, or with both.

Punishment for act endangering life or personal safety of others.

337. Whoever causes hurt to any person by doing any act so rashly or negligently as to endanger human life, or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Causing hurt by act endangering life or personal safety of others.

338. Whoever causes grievous hurt to any person by doing any act so rashly or negligently as to endanger human life, or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both.

Causing grievous hurt by act endangering life or personal safety of others.

Of Wrongful Restraint and Wrongful Confinement.

339. Whoever voluntarily obstructs any person so as to prevent that person from proceeding in any direction in which that person has a right to proceed, is said wrongfully to restrain that person.

Wrongful restraint.

Exception.—The obstruction of a private way over land or water which a person in good faith believes himself to have a lawful right to obstruct, is not an offence within the meaning of this section.

Illustration.

A obstructs a path along which Z has a right to pass, A not believing in good faith that he has a right to stop the path. Z is thereby prevented from passing. A wrongfully restrains Z.

Wrongful confinement.

340. Whoever wrongfully restrains any person in such a manner as to prevent that person from proceeding beyond certain circumscribing limits, is said "wrongfully to confine" that person.

Illustrations.

(*a*). A causes Z to go within a walled space, and locks Z in. Z is thus prevented from proceeding in any direction beyond the circumscribing line of wall. A wrongfully confines Z.

(*b*). A places men with firearms at the outlets of a building, and tells Z that they will fire at Z if Z attempts to leave the building. A wrongfully confines Z.

Punishment for wrongful restraint.

341. Whoever wrongfully restrains any person shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

Punishment for wrongful confinement.

342. Whoever wrongfully confines any person shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

Wrongful confinement for three or more days.

343. Whoever wrongfully confines any person for three days or more, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Wrongful confinement for ten or more days.

344. Whoever wrongfully confines any person for ten days or more, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Wrongful confinement of person for whose liberation a writ has been issued.

345. Whoever keeps any person in wrongful confinement, knowing that a writ for the liberation of that person has been duly issued, shall be punished with imprisonment of either description for a term which may extend to two years, in addition to any term of imprisonment to which he may be liable under any other section of this Code.

Wrongful confinement in secret.

346. Whoever wrongfully confines any person in such manner as to indicate an intention that the confinement of such person may not be known to any person interested in the person so confined, or to any public servant, or that the place of such confinement may not be known to or discovered by any such person or public servant as hereinbefore mentioned, shall be punished with imprisonment of either description for a term which may extend to two years, in addition to any other punishment to which he may be liable for such wrongful confinement.

Wrongful confinement for the purpose of extorting property

347. Whoever wrongfully confines any person for the purpose of extorting from the person confined, or from any person interested in the person confined, any property or valuable security, or of constraining the person confined, or any person interested in such person, to do anything illegal or to

give any information which may facilitate the commission of an offence, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

or constraining to an illegal act.

348. Whoever wrongfully confines any person for the purpose of extorting from the person confined, or any person interested in the person confined, any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the person confined, or any person interested in the person confined, to restore or to cause the restoration of any property or valuable security, or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Wrongful confinement for the purpose of extorting confession, or of compelling restoration of property.

Of criminal Force and Assault.

349. A person is said to use force to another if he causes motion, change of motion, or cessation of motion to that other, or if he causes to any substance such motion, or change of motion or cessation of motion as brings that substance into contact with any part of that other's body, or with anything which that other is wearing or carrying, or with anything so situated that such contact affects that other's sense of feeling; provided that the person causing the motion, or change of motion or cessation of motion, causes that motion, change of motion or cessation of motion in one of the three ways hereinafter described:

Force.

First.—By his own bodily power.

Secondly.—By disposing any substance in such a manner that the motion, or change or cessation of motion takes place without any further act on his part or on the part of any other person.

Thirdly.—By inducing any animal to move, to change its motion, or to cease to move.

350. Whoever intentionally uses force to any person, without that person's consent, in order to the committing of any offence, or intending by the use of such force to cause, or knowing it to be likely that by the use of such force he will cause injury, fear or annoyance to the person to whom the force is used, is said to use criminal force to that other.

Criminal force.

Illustrations.

(*a*). Z is sitting in a moored boat on a river. A unfastens the moorings, and thus intentionally causes the boat to drift down the stream. Here *A* intentionally causes motion to Z, and he does this by disposing substances in such a manner that the motion is produced without any other act on any person's part. A has therefore

intentionally used force to Z; and if he has done so without Z's consent, in order to the committing of any offence, or intending or knowing it to be likely that this use of force will cause injury, fear or annoyance to Z, A has used criminal force to Z.

(*b*). Z is riding in a chariot. A lashes Z's horses, and thereby causes them to quicken their pace. Here A has caused change of motion to Z by inducing the animals to change their motion. A has therefore used force to Z; and if A has done this without Z's consent, intending or knowing it to be likely that he may thereby injure, frighten or annoy Z, A has committed criminal force to Z.

(*c*). Z is riding in a palanquin. A, intending to rob Z, seizes the pole and stops the palanquin. Here A has caused cessation of motion to Z, and he has done this by his own bodily power. A has therefore used force to Z and as A has acted thus intentionally without Z's consent, in order to the commission of an offence, A has used criminal force to Z.

(*d*). A intentionally pushes against Z in the street. Here A has by his own bodily power moved his own person so as to bring it into contact with Z. He has therefore intentionally used force to Z, and if he has done so without Z's consent, intending or knowing it to be likely that he may thereby injure, frighten or annoy Z, he has used criminal force to Z.

(*e*) A throws a stone, intending or knowing it to be likely that the stone will be thus brought into contact with Z, or with Z's clothes, or with something carried by Z, or that it will strike water and dash up the water against Z's clothes or something carried by Z. Here, if the throwing of the stone produce the effect of causing any substance to come into contact with Z or Z's clothes, A has used force to Z; and if he did so without Z's consent, intending thereby to injure, frighten or annoy Z, he has used criminal force to Z.

(*f*). A intentionally pulls up a woman's veil. Here A intentionally uses force to her; and if he does so without her consent, intending or knowing it to be likely that he may thereby injure, frighten or annoy her, he has used criminal force to her.

(*g*). Z is bathing. A pours into the bath water which he knows to be boiling. Here A intentionally, by his own bodily power, causes such motion in the boiling water as brings that water into contact with Z, or with other water so situated that such contact must affect Z's sense of feeling: A has therefore intentionally used force to Z; and if he has done this without Z's consent, intending or knowing it to be likely that he may thereby cause injury, fear or annoyance to Z, A has used criminal force.

(*h*). A incites a dog to spring upon Z, without Z's consent. Here, if A intends to cause injury, fear or annoyance to Z, he uses criminal force to Z.

Assault.

351. Whoever makes any gesture or any preparation, intending or knowing it to be likely that such gesture or preparation will cause any person present to apprehend that he who makes that gesture or preparation is about to use criminal force to that person, is said to commit an assault.

Explanation.—Mere words do not amount to an assault. But the words which a person uses may give to his gestures or preparation such a meaning as may make those gestures or preparations amount to an assault.

Illustrations.

(*a*). A shakes his fist at Z, intending or knowing it to be likely that he may thereby cause Z to believe that A is about to strike Z. A has committed an assault.

(*b*). A begins to unloose the muzzle of a ferocious dog, intending or knowing it to be likely that he may thereby cause Z to believe that he is about to cause the dog to attack Z. A has committed an assault upon Z.

(*c*). A takes up a stick, saying to Z, "I will give you a beating." Here, though the words used by A would in no case amount to an assault, and though the mere gesture, unaccompanied by any other circumstances, might not amount to an assault, the gesture explained by the words may amount to an assault.

Punishment for using criminal force otherwise than on grave provocation.

352. Whoever assaults or uses criminal force to any person otherwise than on grave and sudden provocation given by that person, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Explanation.—Grave and sudden provocation will not mitigate the punishment for an offence under this section, if the provocation is sought or voluntarily provoked by the offender as an excuse for the offence,—or

if the provocation is given by anything done in obedience to the law, or by a public servant in the lawful exercise of the powers of such public servant,—or

if the provocation is given by anything done in the lawful exercise of the right of private defence.

Whether the provocation was grave and sudden enough to mitigate the offence, is a question of fact.

Using criminal force to deter a public servant from discharge of his duty.

353. Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter that person from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by such person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Assault or use of criminal force to woman with intent to outrage her modesty.

354. Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Assault or criminal force with intent to dishonour person, otherwise than on grave provocation.

355. Whoever assaults or uses criminal force to any person, intending thereby to dishonour that person, otherwise than on grave and sudden provocation given by that person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Assault or criminal force in attempt to commit theft of property carried by a person.

356. Whoever assaults or uses criminal force to any person, in attempting to commit theft on any property which that person is then wearing or carrying, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Assault or criminal force in attempt wrongfully to confine person.

357. Whoever assaults or uses criminal force to any person, in attempting wrongfully to confine that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

Assaulting or using criminal force on grave provocation.

358. Whoever assaults or uses criminal force to any person on grave and sudden provocation given by that person, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

Explanation.—The last section is subject to the same explanation as section 352.

Of Kidnapping, Abduction, Slavery and forced Labour.

Kidnapping.

359. Kidnapping is of two kinds; kidnapping from British India, and kidnapping from lawful guardianship.

Kidnapping from British India.

360. Whoever conveys any person beyond the limits of British India without the consent of that person or of some person legally authorized to consent on behalf of that person, is said to kidnap that person from British India.

Kidnapping from lawful guardianship.

361. Whoever takes or entices any minor under fourteen years of age if a male, or under sixteen years of age if a female, or any person of unsound mind, out of the keeping of the lawful guardian of such minor or person of unsound mind, without the consent of such guardian, is said to kidnap such minor or person from lawful guardianship.

Explanation.—The words "lawful guardian" in this section include any person lawfully entrusted with the care or custody of such minor or other person.

Exception.—This section does not extend to the act of any person who in good faith believes himself to be the father of an illegitimate child, or who in good faith believes himself to be entitled to the lawful custody of such child, unless such act is committed for an immoral or unlawful purpose.

362. Whoever by force compels, or by any deceitful means induces, any person to go from any place, is said to abduct that person. Abduction.

363. Whoever kidnaps any person from British India or from lawful guardianship, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. Punishment for kidnapping.

364. Whoever kidnaps or abducts any person in order that such person may be murdered, or may be so disposed of as to be put in danger of being murdered, shall be punished with transportation for life, or rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine. Kidnapping or abducting in order to murder.

Illustrations.

(*a*). A kidnaps Z from British India, intending or knowing it to be likely that Z may be sacrificed to an idol. A has committed the offence defined in this section.

(*b*). A forcibly carries or entices B away from his home in order that B may be murdered. A has committed the offence defined in this section.

365. Whoever kidnaps or abducts any person with intent to cause that person to be secretly and wrongfully confined, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. Kidnapping or abducting with intent secretly and wrongfully to confine person.

366. Whoever kidnaps or abducts any woman with intent that she may be compelled, or knowing it to be likely that she will be compelled to marry any person against her will, or in order that she may be forced or seduced to illicit intercourse, or knowing it to be likely that she will be forced or seduced to illicit intercourse, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. Kidnapping or abducting a woman to compel her marriage, &c.

367. Whoever kidnaps or abducts any person in order that such person may be subjected, or may be so disposed of as to be put in danger of being subjected, to grievous hurt or slavery, or to the unnatural lust of any person, or knowing it to be likely that such person will be so subjected or disposed of, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. Kidnapping or abducting in order to subject a person to grievous hurt, slavery, &c.

368. Whoever, knowing that any person has been kidnapped or has been abducted, wrongfully conceals or keeps such person in confinement, shall be punished in the same manner as if he had kidnapped or abducted such person with the same intention or knowledge or for the same purpose as that with or for which he conceals or detains such person in confinement. Wrongfully concealing or keeping in confinement a kidnapped person.

369. Whoever kidnaps or abducts any child under the age of ten years, with the intention of taking dishonestly any moveable property from the per- Kidnapping child under ten years with

Intent to steal from its person.

son of such child, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Buying or disposing of any person as a slave.

370. Whoever imports, exports, removes, buys, sells or disposes of any person as a slave, or accepts, receives or detains against his will any person as a slave, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Habitual dealing in slaves.

371. Whoever habitually imports, exports, removes, buys, sells, traffics or deals in slaves, shall be punished with transportation for life, or with imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

Selling of any minor for purposes of prostitution, &c.

372. Whoever sells, lets to hire, or otherwise disposes of any minor under the age of sixteen years, with intent that such minor shall be employed or used for the purpose of prostitution or for any unlawful and immoral purpose, or knowing it to be likely that such minor will be employed or used for any such purpose, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Buying of any minor for purposes of prostitution.

373. Whoever buys, hires, or otherwise obtains possession of any minor under the age of sixteen years, with intent that such minor shall be employed or used for the purpose of prostitution or for any unlawful and immoral purpose, or knowing it to be likely that such minor will be employed or used for any such purpose, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Unlawful compulsory labour.

374. Whoever unlawfully compels any person to labour against the will of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Of Rape.

Rape.

375. A man is said to commit "rape" who, except in the case hereinafter excepted, has sexual intercourse with a woman under circumstances falling under any of the five following descriptions:—

First.—Against her will.

Secondly.—Without her consent.

Thirdly.—With her consent, when her consent has been obtained by putting her in fear of death or of hurt.

Fourthly.—With her consent, when the man knows that he is not her husband, and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

Fifthly.—With or without her consent, when she is under ten years of age.

Explanation.—Penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape.

Exception.—Sexual intercourse by a man with his own wife, the wife, not being under ten years of age, is not rape.

376. Whoever commits rape shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. Punishment for rape.

Of Unnatural Offences.

377. Whoever voluntarily has carnal intercourse against the order of nature with any man, woman, or animal, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.[a] Unnatural offences.

Explanation.—Penetration is sufficient to constitute the carnal intercourse necessary to the offence described in this section.

CHAPTER XVII.

Of Offences against Property.

Of Theft.

378. Whoever, intending to take dishonestly any moveable property out of the possession of any person without that person's consent, moves that property in order to such taking, is said to commit theft. Theft.

Explanation 1.—A thing so long as it is attached to the earth, not being moveable property, is not the subject of theft; but it becomes capable of being the subject of theft as soon as it is severed from the earth.

Explanation 2.—A moving effected by the same act which effects the severance, may be a theft.

Explanation 3.—A person is said to cause a thing to move by removing an obstacle which prevented it from moving, or by separating it from any other thing, as well as by actually moving it.

Explanation 4.—A person, who by any means causes an animal to move, is said to move that animal, and to move every thing which, in consequence of the motion so caused, is moved by that animal.

Explanation 5.—The consent mentioned in the definition may be express or implied, and may be given either by the person in possession, or by any person having for that purpose authority either express or implied.

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[a] See Act No. XXVII of 1871, section 24.

Illustrations.

(*a*). A cuts down a tree on Z's ground, with the intention of dishonestly taking the tree out of Z's possession, without Z's consent. Here, as soon as A has severed the tree, in order to such taking, he has committed theft.

(*b*). A puts a bait for dogs in his pocket, and thus induces Z's dog to follow it. Here, if A's intention be dishonestly to take the dog out of Z's possession without Z's consent, A has committed theft as soon as Z's dog has begun to follow A.

(*c*). A meets a bullock carrying a box of treasure. He drives the bullock in a certain direction, in order that he may dishonestly take the treasure. As soon as the bullock begins to move, A has committed theft of the treasure.

(*d*). A, being Z's servant, and entrusted by Z with the care of Z's plate, dishonestly runs away with the plate, without Z's consent. A has committed theft.

(*e*.) Z, going on a journey, entrusts his plate to A, the keeper of a warehouse, till Z shall return. A carries the plate to a goldsmith and sells it. Here the plate was not in Z's possession. It could not therefore be taken out of Z's possession, and A has not committed theft, though he may have committed criminal breach of trust.

(*f*). A finds a ring belonging to Z on a table in the house which Z occupies. Here the ring is in Z's possession, and if A dishonestly removes it, A commits theft.

(*g*) A finds a ring lying on the high road, not in the possession of any person. A, by taking it, commits no theft, though he may commit criminal misappropriation of property.

(*h*). A sees a ring belonging to Z lying on a table in Z's house. Not venturing to misappropriate the ring immediately for fear of search and detection, A hides the ring in a place where it is highly improbable that it will ever be found by Z, with the intention of taking the ring from the hiding place and selling it when the loss is forgotten. Here A, at the time of first moving the ring, commits theft.

(*i*). A delivers his watch to Z, a jeweller, to be regulated Z carries it to his shop. A, not owing to the jeweller any debt for which the jeweller might lawfully detain the watch as a security, enters the shop openly, takes his watch by force out of Z's hand, and carries it away. Here A, though he may have committed criminal trespass and assault, has not committed theft, inasmuch as what he did was not done dishonestly.

(*j*). If A owes money to Z for repairing the watch, and if Z retains the watch lawfully as a security for the debt, and A takes the watch out of Z's possession with the intention of depriving Z of the property as a security for his debt, he commits theft, inasmuch as he takes it dishonestly.

(*k*). Again, if A, having pawned his watch to Z, takes it out of Z's possession without Z's consent, not having paid what he borrowed on the watch, he commits theft, though the watch is his own property, inasmuch as he takes it dishonestly.

(*l*). A takes an article belonging to Z out of Z's possession, without Z's consent, with the intention of keeping it until he obtains money from Z as a reward for its restoration. Here A takes dishonestly; A has therefore committed theft.

(*m*). A, being on friendly terms with Z, goes into Z's library in Z's absence, and takes away a book without Z's express consent, for the purpose merely of reading it, and with the intention of returning it. Here, it is probable that A may have conceived that he had Z's implied consent to use Z's book. If this was A's impression, A has not committed theft.

(*n*). A asks charity from Z's wife. She gives A money, food and clothes, which A knows to belong to Z, her husband. Here, it is probable that A may conceive that Z's wife is authorized to give away alms. If this was A's impression, A has not committed theft.

(*o*). A is the paramour of Z's wife. She gives A valuable property, which A knows to belong to her husband Z, and to be such property as she has not authority from Z to give. If A takes the property dishonestly, he commits theft.

(*p*). A, in good faith believing property belonging to Z to be A's own property, takes that property out of B's possession. Here, as A does not take dishonestly, he does not commit theft.

379. Whoever commits theft shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both. Punishment for theft.

380. Whoever commits theft in any building, tent or vessel, which building, tent or vessel is used as a human dwelling, or for the custody of property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. Theft in dwelling-house, &c.

381. Whoever, being a clerk or servant, or being employed in the capacity of a clerk or servant, commits theft in respect of any property in the possession of his master or employer, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. Theft by clerk or servant, of property in possession of master.

382. Whoever commits theft, having made preparation for causing death or hurt or restraint, or fear of death or of hurt or of restraint, to any person, in order to the committing of such theft, or in order to the effecting of his escape after the committing of such theft, or in order to the retaining of property taken by such theft, shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine. Theft after preparation made for causing death or hurt, in order to the committing of the theft.

Illustrations.

(*a*). A commits theft on property in Z's possession; and, while committing this theft, he has a loaded pistol under his garment, having provided this pistol for the

purpose of hurting Z, in case Z should resist. A has committed the offence defined in this section.

(*b*). A picks Z's pocket, having posted several of his companions near him, in order that they may restrain Z, if Z should perceive what is passing and should resist, or should attempt to apprehend A. A has committed the offence defined in this section.

Of Extortion.

Extortion.

383. Whoever intentionally puts any person in fear of any injury to that person or to any other, and thereby dishonestly induces the person so put in fear to deliver to any person any property or valuable security, or anything signed or sealed which may be converted into a valuable security, commits "extortion."

Illustrations.

(*a*). A threatens to publish a defamatory libel concerning Z, unless Z gives him money. He thus induces Z to give him money. A has committed extortion.

(*b*). A threatens Z that he will keep Z's child in wrongful confinement, unless Z will sign and deliver to A a promissory note binding Z to pay certain monies to A. Z signs and delivers the note. A has committed extortion.

(*c*). A threatens to send club-men to plough up Z's field, unless Z will sign and deliver to B a bond binding Z under a penalty to deliver certain produce to B, and thereby induces Z to sign and deliver the bond. A has committed extortion.

(*d*). A, by putting Z in fear of grievous hurt, dishonestly induces Z to sign or affix his seal to a blank paper, and deliver it to A. Z signs and delivers the paper to A. Here, as the paper so signed may be converted into a valuable security, A has committed extortion.

Punishment for extortion.

384. Whoever commits extortion shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Putting person in fear of injury in order to commit extortion.

385. Whoever, in order to the committing of extortion, puts any person in fear or attempts to put any person in fear of any injury, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Extortion by putting a person in fear of death or grievous hurt.

386. Whoever commits extortion by putting any person in fear of death or of grievous hurt to that person or to any other, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Putting person in fear of death or of grievous hurt, in order to commit extortion.

387. Whoever, in order to the committing of extortion, puts or attempts to put any person in fear of death or of grievous hurt to that person or to any other, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

388. Whoever commits extortion by putting any person in fear of an accusation against that person or any other, of having committed or attempted to commit any offence punishable with death, or with transportation for life, or with imprisonment for a term which may extend to ten years, or of having attempted to induce any other person to commit such offence, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if the offence be one punishable under section 377, may be punished with transportation for life.

Extortion by threat of accusation of an offence punishable with death or transportation, &c.

389. Whoever, in order to the committing of extortion, puts or attempts to put any person in fear of an accusation against that person or any other, of having committed, or attempted to commit, an offence punishable with death, or with transportation for life, or with imprisonment for a term which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if the offence be punishable under section 377, may be punished with transportation for life.

Putting person in fear of accusation of offence, in order to commit extortion

Of Robbery and Dacoity.

390. In all robbery there is either theft or extortion.

Robbery.

Theft is "robbery," if, in order to the committing of the theft, or in committing the theft, or in carrying away or attempting to carry away property obtained by the theft, the offender, for that end, voluntarily causes or attempts to cause to any person death or hurt or wrongful restraint, or fear of instant death or of instant hurt or of instant wrongful restraint.

When theft is robbery.

Extortion is "robbery," if the offender, at the time of committing the extortion, is in the presence of the person put in fear, and commits the extortion by putting that person in fear of instant death, of instant hurt, or of instant wrongful restraint to that person or to some other person, and, by so putting in fear, induces the person so put in fear then and there to deliver up the thing extorted.

When extortion is robbery.

Explanation.—The offender is said to be present if he is sufficiently near to put the other person in fear of instant death, of instant hurt, or of instant wrongful restraint.

Illustrations.

(*a*). A holds Z down, and fraudulently takes Z's money and jewels from Z's clothes, without Z's consent. Here A has committed theft, and, in order to the committing of that theft, has voluntarily caused wrongful restraint to Z. A has therefore committed robbery.

(*b*). A meets Z on the high road, shows a pistol, and demands Z's purse. Z, in consequence, surrenders his purse. Here A has extorted the purse from Z by putting him in fear of instant hurt, and being at the time of committing the extortion in his presence. A has therefore committed robbery.

(*c*). A meets Z and Z's child on the high road. A takes the child, and threatens to fling it down a precipice, unless Z delivers his purse. Z, in consequence, delivers his purse. Here A has extorted the purse from Z, by causing Z to be in fear of instant hurt to the child who is there present. A has therefore committed robbery on Z.

(*d*). A obtains property from Z by saying—"Your child is in the hand of my gang, and will be put to death unless you send us ten thousand rupees." This is extortion, and punishable as such: but it is not robbery, unless Z is put in fear of the instant death of his child.

Dacoity.

391. When five or more persons conjointly commit or attempt to commit a robbery, or where the whole number of persons conjointly committing or attempting to commit a robbery, and persons present and aiding such commission or attempt, amount to five or more, every person so committing, attempting or aiding, is said to commit "dacoity."

Punishment for robbery.

392. Whoever commits robbery shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine; and if the robbery be committed on the highway between sunset and sunrise, the imprisonment may be extended to fourteen years.

Attempt to commit robbery.

393. Whoever attempts to commit robbery shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Voluntarily causing hurt in committing robbery.

394. If any person, in committing or attempting to commit robbery, voluntarily causes hurt, such person, and any other person jointly concerned in committing or attempting to commit such robbery, shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Punishment for dacoity.

395. Whoever commits dacoity shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Dacoity with murder.

396. If any one of five or more persons, who are conjointly committing dacoity, commits murder in so committing dacoity, every one of those persons shall be punished with death, or transportation for life, or rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Robbery or dacoity, with attempt to

397. If, at the time of committing robbery or dacoity, the offender uses any deadly weapon, or causes grievous hurt to any person, or attempts to cause

death or grievous hurt to any person, the imprisonmen with which such offender shall be punished shall not be less than seven years.

cause death or grievous hurt.

398. If, at the time of attempting to commit robbery or dacoity, the offender is armed with any deadly weapon, the imprisonment with which such offender shall be punished shall not be less than seven years.

Attempt to commit robbery or dacoity when armed with deadly weapon.

399. Whoever makes any preparation for committing dacoity, shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Making preparation to commit dacoity.

400. Whoever, at any time after the passing of this Act, shall belong to a gang of persons associated for the purpose of habitually committing dacoity, shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Punishment for belonging to a gang of dacoits.

401. Whoever, at any time after the passing of this Act, shall belong to any wandering or other gang of persons associated for the purpose of habitually committing theft or robbery, and not being a gang of thugs or dacoits, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Punishment for belonging to a wandering gang of thieves.

402. Whoever, at any time after the passing of this Act, shall be one of five or more persons assembled for the purpose of committing dacoity, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Assembling for purpose of committing dacoity.

Of Criminal Misappropriation of Property.

403. Whoever dishonestly misappropriates or converts to his own use any moveable property, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Dishonest misappropriation of property.

Illustrations.

(*a*). A takes property belonging to Z out of Z's possession, in good faith believing, at the time when he takes it, that the property belongs to himself. A is not guilty of theft; but if A, after discovering his mistake, dishonestly appropriates the property to his own use, he is guilty of an offence under this section.

(*b*). A, being on friendly terms with Z, goes into Z's library in Z's absence, and takes away a book without Z's express consent. Here, if A was under the impression that he had Z's implied consent to take the book for the purpose of reading it, A has not committed theft. But if A afterwards sells the book for his own benefit, he is guilty of an offence under this section.

(*c*). A and B being joint owners of a horse, A takes the horse out of B's possession, intending to use it. Here, as A has a right to use the horse, he does not dishonestly misappropriate it. But if A sells the horse and appropriates the whole proceeds to his own use, he is guilty of an offence under this section.

Explanation 1.—A dishonest misappropriation for a time only is a misappropriation within the meaning of this section.

Illustration.

A finds a Government promissory note belonging to Z, bearing a blank endorsement. A, knowing that the note belongs to Z, pledges it with a banker as a security for a loan, intending at a future time to restore it to Z. A has committed an offence under this section.

Explanation 2.—A person who finds property not in the possession of any other person, and takes such property for the purpose of protecting it for, or of restoring it to, the owner, does not take or misappropriate it dishonestly, and is not guilty of an offence; but he is guilty of the offence above defined if he appropriates it to his own use, when he knows or has the means of discovering the owner, or before he has used reasonable means to discover and give notice to the owner, and has kept the property a reasonable time to enable the owner to claim it.

What are reasonable means, or what is a reasonable time, in such a case, is a question of fact.

It is not necessary that the finder should know who is the owner of the property, or that any particular person is the owner of it: it is sufficient if, at the time of appropriating it, he does not believe it to be his own property, or in good faith believe that the real owner cannot be found.

Illustrations.

(*a*). A finds a rupee on the high road, not knowing to whom the rupee belongs. A picks up the rupee. Here A has not committed the offence defined in this section.

(*b*). A finds a letter on the road, containing a bank-note. From the direction and contents of the letter he learns to whom the note belongs. He appropriates the note. He is guilty of an offence under this section.

(*c*). A finds a cheque payable to bearer. He can form no conjecture as to the person who has lost the cheque. But the name of the person who has drawn the cheque appears. A knows that this person can direct him to the person in whose favour the cheque was drawn. A appropriates the cheque without attempting to discover the owner. He is guilty of an offence under this section.

(*d*). A sees Z drop his purse with money in it. A picks up the purse with the intention of restoring it to Z, but afterwards appropriates it to his own use. A has committed an offence under this section.

(*e*). A finds a purse, with money, not knowing to whom it belongs; he afterwards discovers that it belongs to Z, and appropriates it to his own use. A is guilty of an offence under this section.

(*f*). A finds a valuable ring, not knowing to whom it belongs. A sells it immediately without attempting to discover the owner. A is guilty of an offence under this section.

Dishonest misappropriation of property possessed by a deceased person at the time of his death.

404. Whoever dishonestly misappropriates or converts to his own use property, knowing that such property was in the possession of a deceased person at the time of that person's decease, and has not since been in the possession of any person legally entitled to such possession, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the offender at the time of such person's decease was employed by him as a clerk or servant, the imprisonment may extend to seven years.

Illustration.

Z dies in possession of furniture and money. His servant A, before the money comes into the possession of any person entitled to such possession, dishonestly misappropriates it. A has committed the offence defined in this section.

Of Criminal Breach of Trust.

Criminal breach of trust.

405. Whoever, being in any manner entrusted with property, or with any dominion over property, dishonestly misappropriates or converts to his own use that property, or dishonestly uses or disposes of that property in violation of any direction of law prescribing the mode in which such trust is to be discharged, or of any legal contract, express or implied, which he has made touching the discharge of such trust, or wilfully suffers any other person so to do, commits "criminal breach of trust."

Illustrations.

(*a*). A, being executor to the will of a deceased person, dishonestly disobeys the law which directs him to divide the effects according to the will, and appropriates them to his own use. A has committed criminal breach of trust.

(*b*). A is a warehouse-keeper. Z, going on a journey, entrusts his furniture to A, under a contract that it shall be returned on payment of a stipulated sum for warehouse-room. A dishonestly sells the goods. A has committed criminal breach of trust.

(*c*). A, residing in Calcutta, is agent for Z, residing at Delhi. There is an express or implied contract between A and Z that all sums remitted by Z to A shall be invested by A according to Z's direction. Z remits a lákh of rupees to A, with directions to A to invest the same in Company's paper. A dishonestly disobeys the

directions, and employs the money in his own business. A has committed criminal breach of trust.

(*d*). But if A, in the last illustration, not dishonestly, but in good faith believing that it will be more for Z's advantage to hold shares in the Bank of Bengal, disobeys Z's directions and buys shares in the Bank of Bengal for Z, instead of buying Company's paper, here, though Z should suffer loss, and should be entitled to bring a civil action against A on account of that loss, yet A, not having acted dishonestly, has not committed criminal breach of trust.

(*e*). A, a revenue officer, is entrusted with public money, and is either directed by law, or bound by a contract, express or implied, with the Government, to pay into a certain treasury all the public money which he holds. A dishonestly appropriates the money. A has committed criminal breach of trust.

(*f*). A, a carrier, is entrusted by Z with property to be carried by land or by water. A dishonestly misappropriates the property. A has committed criminal breach of trust.

Punishment for criminal breach of trust.

406. Whoever commits criminal breach of trust shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Criminal breach of trust by carrier, &c.

407. Whoever, being entrusted with property as a carrier, wharfinger or warehouse-keeper, commits criminal breach of trust in respect of such property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Criminal breach of trust by a clerk or servant.

408. Whoever, being a clerk or servant, or employed as a clerk or servant, and being in any manner entrusted in such capacity with property, or with any dominion over property, commits criminal breach of trust in respect of that property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Criminal breach of trust by public servant, or by banker, merchant or agent.

409. Whoever, being in any manner entrusted with property, or with any dominion over property, in his capacity of a public servant or in the way of his business as a banker, merchant, factor, broker, attorney or agent, commits criminal breach of trust in respect of that property, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Of the receiving of Stolen Property.

Stolen property.

410. Property the possession whereof has been transferred by theft, or by extortion, or by robbery, and property which has been criminally misappropriated or in respect of which the offence of criminal breach of trust has been committed, is designated as "stolen property." But if such property

subsequently comes into the possession of a person legally entitled to the possession thereof, it then ceases to be stolen property.

411. Whoever dishonestly receives or retains any stolen property, knowing or having reason to believe the same to be stolen property, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both. Dishonestly receiving stolen property.

412. Whoever dishonestly receives or retains any stolen property, the possession whereof he knows or has reason to believe to have been transferred by the commission of dacoity, or dishonestly receives from a person whom he knows or has reason to believe to belong, or to have belonged, to a gang of dacoits, property which he knows or has reason to believe to have been stolen, shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine. Dishonestly receiving property stolen in the commission of a dacoity.

413. Whoever habitually receives or deals in property which he knows or has reason to believe to be stolen property, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. Habitually dealing in stolen property.

414. Whoever voluntarily assists in concealing or disposing of or making away with property which he knows or has reason to believe to be stolen property, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both. Assisting in concealment of stolen property.

Of Cheating.

415. Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to "cheat." Cheating.

Explanation.—A dishonest concealment of facts is a deception within the meaning of this section.

Illustrations.

(*a*). A, by falsely pretending to be in the Civil Service, intentionally deceives Z, and thus dishonestly induces Z to let him have on credit goods for which he does not mean to pay. A cheats.

(*b*). A, by putting a counterfeit mark on an article, intentionally deceives Z into a belief that this article was made by a certain celebrated manufacturer, and thus dishonestly induces Z to buy and pay for the article. A cheats

(*c*). A, by exhibiting to Z a false sample of an article, intentionally deceives Z into believing that the article corresponds with the sample, and thereby dishonestly induces Z to buy and pay for the article. A cheats.

(*d*). A, by tendering in payment for an article a bill on a house with which A keeps no money, and by which A expects that the bill will be dishonoured, intentionally deceives Z, and thereby dishonestly induces Z to deliver the article, intending not to pay for it. A cheats.

(*e*). A, by pledging as diamonds articles which he knows are not diamonds, intentionally deceives Z, and thereby dishonestly induces Z to lend money. A cheats.

(*f*). A intentionally deceives Z into a belief that A means to repay any money that Z may lend to him, and thereby dishonestly induces Z to lend him money, A not intending to repay it. A cheats.

(*g*). A intentionally deceives Z into a belief that A means to deliver to Z a certain quantity of indigo-plant which he does not intend to deliver, and thereby dishonestly induces Z to advance money upon the faith of such delivery. A cheats but if A, at the time of obtaining the money, intends to deliver the indigo-plant, and afterwards breaks his contract and does not deliver it, he does not cheat, but is liable only to a civil action for breach of contract.

(*h*). A intentionally deceives Z into a belief that A has performed A's part of a contract made with Z, which he has not performed, and thereby dishonestly induces Z to pay money. A cheats.

(*i*). A sells and conveys an estate to B. A knowing that in consequence of such sale he has no right to the property, sells or mortgages the same to Z without disclosing the fact of the previous sale and conveyance to B, and receives the purchase or mortgage-money from Z. A cheats.

Cheating by personation.

416. A person is said to "cheat by personation" if he cheats by pretending to be some other person, or by knowingly substituting one person for another, or representing that he or any other person is a person other than he or such other person really is.

Explanation.—The offence is committed whether the individual personated is a real or imaginary person.

Illustrations.

(*a*). A cheats by pretending to be a certain rich banker of the same name. A cheats by personation.

(*b*). A cheats by pretending to be B, a person who is deceased. A cheats by personation.

Punishment for cheating.

417. Whoever cheats shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

418. Whoever cheats with the knowledge that he is likely thereby to cause wrongful loss to a person whose interest in the transaction to which the cheating relates he was bound, either by law or by a legal contract, to protect, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Cheating with knowledge that wrongful loss may ensue to person whose interest offender is bound to protect.

419. Whoever cheats by personation shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Punishment for cheating by personation.

420. Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Cheating and dishonestly inducing a delivery of property.

Of fraudulent Deeds and Dispositions of Property.

421. Whoever dishonestly or fraudulently removes, conceals or delivers to any person, or transfers or causes to be transferred to any person, without adequate consideration, any property, intending thereby to prevent, or knowing it to be likely that he will thereby prevent, the distribution of that property according to law among his creditors or the creditors of any other person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Dishonest or fraudulent removal or concealment of property to prevent distribution among creditors.

422. Whoever dishonestly or fraudulently prevents any debt or demand due to himself or to any other person from being made available according to law for payment of his debts or the debts of such other person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Dishonestly or fraudulently preventing debt being available for creditors.

423. Whoever dishonestly or fraudulently signs, executes or becomes a party to any deed or instrument which purports to transfer or subject to any charge any property, or any interest therein, and which contains any false statement relating to the consideration for such transfer or charge, or relating to the person or persons for whose use or benefit it is really intended to operate, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Dishonest or fraudulent execution of deed of transfer containing a false statement of consideration.

424. Whoever dishonestly or fraudulently conceals or removes any property of himself or any other person, or dishonestly or fraudulently assists in the concealment or removal thereof, or dishonestly releases any demand or claim to which he is entitled, shall be punished with imprisonment of either

Dishonest or fraudulent removal or concealment of property.

description for a term which may extend to two years, or with fine, or with both.

Of Mischief.

Mischief.

425. Whoever, with intent to cause, or knowing that he is likely to cause, wrongful loss or damage to the public or to any person, causes the destruction of any property, or any such change in any property or in the situation thereof as destroys or diminishes its value or utility or affects it injuriously, commits "mischief."

Explanation 1.—It is not essential to the offence of mischief that the offender should intend to cause loss or damage to the owner of the property injured or destroyed. It is sufficient if he intends to cause, or knows that he is likely to cause, wrongful loss or damage to any person by injuring any property, whether it belongs to that person or not.

Explanation 2.—Mischief may be committed by an act affecting property belonging to the person who commits the act, or to that person and others jointly.

Illustrations.

(*a*). A voluntarily burns a valuable security belonging to Z, intending to cause wrongful loss to Z. A has committed mischief.

(*b*). A introduces water into an ice-house belonging to Z, and thus causes the ice to melt, intending wrongful loss to Z. A has committed mischief.

(*c*). A voluntarily throws into a river a ring belonging to Z, with the intention of thereby causing wrongful loss to Z. A has committed mischief.

(*d*). A, knowing that his effects are about to be taken in execution in order to satisfy a debt due from him to Z, destroys those effects, with the intention of thereby preventing Z from obtaining satisfaction of the debt, and of thus causing damage to Z. A has committed mischief.

(*e*). A, having insured a ship, voluntarily causes the same to be cast away, with the intention of causing damage to the underwriters. A has committed mischief.

(*f*). A causes a ship to be cast away, intending thereby to cause damage to Z, who has lent money on bottomry on the ship. A has committed mischief.

(*g*). A, having joint property with Z in a horse, shoots the horse, intending thereby to cause wrongful loss to Z. A has committed mischief.

(*h*). A causes cattle to enter upon a field belonging to Z, intending to cause, and knowing that he is likely to cause, damage to Z's crop. A has committed mischief.

Punishment for committing mischief.

426. Whoever commits mischief shall be punished with imprisonment of either description, for a term which may extend to three months, or with fine, or with both.

427. Whoever commits mischief and thereby causes loss or damage to the amount of fifty rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Committing mischief and thereby causing damage to the amount of fifty rupees.

428. Whoever commits mischief by killing, poisoning, maiming or rendering useless, any animal or animals of the value of ten rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Mischief by killing or maiming any animal of the value of ten rupees.

429. Whoever commits mischief by killing, poisoning, maiming or rendering useless, any elephant, camel, horse, mule, buffalo, bull, cow or ox, whatever may be the value thereof, or any other animal of the value of fifty rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Mischief by killing or maiming cattle, &c., or any animal of the value of fifty rupees.

430. Whoever commits mischief by doing any act which causes, or which he knows to be likely to cause, a diminution of the supply of water for agricultural purposes, or for food or drink for human beings, or for animals which are property, or for cleanliness, or for carrying on any manufacture, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Mischief by injury to works of irrigation or by wrongfully diverting water.

431. Whoever commits mischief by doing any act which renders, or which he knows to be likely to render, any public road, bridge, navigable river or navigable channel, natural or artificial, impassable or less safe for travelling or conveying property, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Mischief by injury to public road, bridge, or river.

432. Whoever commits mischief by doing any act which causes, which he knows to be likely to cause, an inundation or an obstruction to any public drainage attended with injury or damage, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Mischief by causing inundation or obstruction to public drainage attended with damage.

433. Whoever commits mischief by destroying or moving any lighthouse or other light used as a sea-mark, or any sea-mark or buoy or other thing placed as a guide for navigators, or by any act which renders any such lighthouse, sea-mark, buoy or other such thing as aforesaid less useful as a guide for navigators, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Mischief by destroying or moving or rendering less useful a lighthouse or sea-mark.

434. Whoever commits mischief by destroying or moving any land-mark fixed by the authority of a public servant, or by any act which renders such land-mark less useful as such, shall be punished with imprisonment of

Mischief by destroying or moving, &c., a land-mark

fixed by public authority.

either description for a term which may extend to one year, or with fine, or with both.

Mischief by fire or explosive substance with intent to cause damage to amount of 100 rupees.

435. Whoever commits mischief by fire or any explosive substance, intending to cause, or knowing it to be likely that he will thereby cause, damage to any property to the amount of one hundred rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Mischief by fire or explosive substance with intent to destroy a house, &c.

436. Whoever commits mischief by fire or any explosive substance, intending to cause, or knowing it to be likely that he will thereby cause, the destruction of any building which is ordinarily used as a place of worship, or as a human dwelling, or as a place for the custody of property, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Mischief with intent to destroy or make unsafe a decked vessel or one of 20 tons burden.

437. Whoever commits mischief to any decked vessel, or any vessel of a burden of twenty tons or upwards, intending to destroy or render unsafe, or knowing it to be likely that he will thereby destroy or render unsafe, that vessel, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Punishment for mischief described in section 437, committed by fire or explosive substance.

438. Whoever commits or attempts to commit, by fire or any explosive substance, such mischief as is described in the last preceding section, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Punishment for intentionally running vessel aground or ashore with intent to commit theft, &c.

439. Whoever intentionally runs any vessel aground or ashore, intending to commit theft of any property contained therein, or to dishonestly misappropriate any such property, or with intent that such theft or misappropriation of property may be committed, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Mischief committed after preparation made for causing death or hurt.

440. Whoever commits mischief, having made preparation for causing to any person death or hurt or wrongful restraint, or fear of death or of hurt or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

Of Criminal Trespass.

Criminal trespass.

441. Whoever enters into or upon property in the possession of another with intent to commit an offence or to intimidate, insult or annoy any person in possession of such property; or having lawfully entered into or upon such property, unlawfully remains there with intent thereby to intimidate, insult or

annoy any such person, or with intent to commit an offence, is said to commit "criminal trespass."

442. Whoever commits criminal trespass by entering into or remaining in any building, tent or vessel used as a human dwelling, or any building used as a place for worship or as a place for the custody of property, is said to commit "house-trespass." House-trespass.

Explanation.—The introduction of any part of the criminal trespasser's body is entering sufficient to constitute house-trespass.

443. Whoever commits house-trespass, having taken precautions to conceal such house-trespass from some person who has a right to exclude or eject the trespasser from the building, tent or vessel which is the subject of the trespass, is said to commit "lurking house-trespass." Lurking house-trespass.

444. Whoever commits lurking house-trespass after sunset and before sunrise, is said to commit "lurking house-trespass by night." Lurking house-trespass by night.

445. A person is said to commit "house-breaking" who commits house-trespass, if he effects his entrance into the house or any part of it in any of the six ways hereinafter described; or if, being in the house or any part of it for the purpose of committing an offence, or, having committed an offence therein, he quits the house or any part of it in any of such six ways, that is to say:— House-breaking.

Firstly.—If he enters or quits through a passage made by himself, or by any abettor of the house-trespass, in order to the committing of the house-trespass.

Secondly.—If he enters or quits through any passage not intended by any person, other than himself or an abettor of the offence, for human entrance; or through any passage to which he has obtained access by scaling or climbing over any wall or building.

Thirdly.—If he enters or quits through any passage which he or any abettor of the house-trespass has opened, in order to the committing of the house-trespass, by any means by which that passage was not intended by the occupier of the house to be opened.

Fourthly.—If he enters or quits by opening any lock in order to the committing of the house-trespass, or in order to the quitting of the house after a house-trespass.

Fifthly.—If he effects his entrance or departure by using criminal force or committing an assault, or by threatening any person with assault.

Sixthly.—If he enters or quits by any passage which he knows to have been fastened against such entrance or departure, and to have been unfastened by himself or by an abettor of the house-trespass.

Explanation.—Any out-house or building occupied with a house, and between which and such house there is an immediate internal communication, is part of the house within the meaning of this section.

Illustrations.

(*a*). A commits house-trespass by making a hole through the wall of Z's house and putting his hand through the aperture. This is house-breaking.

(*b*). A commits house-trespass by creeping into a ship at a port-hole between decks. This is house-breaking.

(*c*). A commits house-trespass by entering Z's house through a window. This is house-breaking.

(*d*). A commits house-trespass by entering Z's house through the door, having opened a door which was fastened. This is house-breaking.

(*e*). A commits house-trespass by entering Z's house through the door, having lifted a latch by putting a wire through a hole in the door. This is house-breaking.

(*f*). A finds the key of Z's house-door, which Z had lost, and commits house-trespass by entering Z's house, having opened the door with that key. This is house-breaking.

(*g*). Z is standing in his door-way. A forces a passage by knocking Z down, and commits house-trespass by entering the house. This is house-breaking.

(*h*). Z, the door-keeper of Y, is standing in Y's door-way. A commits house-trespass by entering the house, having deterred Z from opposing him by threatening to beat him. This is house-breaking.

House-breaking by night.

446. Whoever commits house-breaking after sunset and before sunrise is said to commit "house-breaking by night."

Punishment for criminal trespass.

447. Whoever commits criminal trespass shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Punishment for house-trespass.

448. Whoever commits house-trespass shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

House-trespass in order to commit offence punishable with death.

449. Whoever commits house-trespass in order to the committing of any offence punishable with death, shall be punished with transportation for life, or with rigorous imprisonment for a term not exceeding ten years, and shall also be liable to fine.

House-trespass in order to commit offence punishable with transportation for life.

450. Whoever commits house-trespass in order to the committing of any offence punishable with transportation for life, shall be punished with imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

451. Whoever commits house-trespass in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine; and if the offence intended to be committed is theft, the term of the imprisonment may be extended to seven years.

House-trespass in order to the commission of an offence punishable with imprisonment.

452. Whoever commits house-trespass, having made preparation for causing hurt to any person, or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt or of assault or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

House-trespass after preparation made for causing hurt to any person.

453. Whoever commits lurking house-trespass or house-breaking shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine.

Punishment for lurking house-trespass or house-breaking.

454. Whoever commits lurking house-trespass or house-breaking in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine, and if the offence intended to be committed is theft, the term of the imprisonment may be extended to ten years.

Lurking house-trespass or house-breaking in order to commit offence punishable with imprisonment.

455. Whoever commits lurking house-trespass or house-breaking having made preparation for causing hurt to any person, or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt or of assault or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Lurking house-trespass or house breaking after preparation for hurt.

456. Whoever commits lurking house-trespass by night or house-breaking by night, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Punishment for lurking house-trespass or housebreaking by night.

457. Whoever commits lurking house-trespass by night or house-breaking by night, in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine; and if the offence intended to be committed is theft, the term of the imprisonment may be extended to fourteen years.

Lurking house-trespass or house-breaking by night, to commit offence punishable with imprisonment.

458. Whoever commits lurking house-trespass by night or house-breaking by night, having made preparation for causing hurt to any person, or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt or of assault or of wrongful restraint, shall be

Lurking house-trespass or house-breaking by night, after preparation

made for causing hurt to any person.

punished with imprisonment of either description for a term which may extend to fourteen years, and shall also be liable to fine.

Grievous hurt caused whilst committing lurking house-trespass or house-breaking.

459. Whoever, whilst committing lurking house-trespass or house-breaking, causes grievous hurt to any person, or attempts to cause death or grievous hurt to any person, shall be punished with transportation for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

All persons jointly concerned in house-breaking, &c., punishable where death or grievous hurt caused by one of them.

460. If, at the time of the committing of lurking house-trespass by night or house-breaking by night, any person guilty of such offence shall voluntarily cause or attempt to cause death or grievous hurt to any person, every person jointly concerned in committing such lurking house-trespass by night or house-breaking by night, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Dishonestly breaking open closed receptacle containing property.

461. Whoever dishonestly, or with intent to commit mischief, breaks open or unfastens any closed receptacle which contains or which he believes to contain property, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Punishment for same offence when committed by person entrusted with custody.

462. Whoever, being entrusted with any closed receptacle which contains or which he believes to contain property, without having authority to open the same, dishonestly, or with intent to commit mischief, breaks open or unfastens that receptacle, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

CHAPTER XVIII.

Of Offences relating to Documents and to Trade or Property-marks.

Forgery.

463. Whoever makes any false document or part of a document with intent to cause damage or injury to the public or to any person, or to support any claim or title, or to cause any person to part with property, or to enter into any express or implied contract, or with intent to commit fraud or that fraud may be committed, commits forgery.

Making a false document.

464. A person is said to make a false document—

First.—Who dishonestly or fraudulently makes, signs, seals or executes a document or part of a document, or makes any mark denoting the execution of a document, with the intention of causing it to be believed that such document or part of a document was made, signed, sealed or executed by or by the authority of a person by whom or by whose authority he knows that

it was not made, signed, sealed or executed, or at a time at which he knows that it was not made, signed, sealed or executed; or

Secondly.—Who, without lawful authority, dishonestly or fraudulently, by cancellation or otherwise, alters a document in any material part thereof, after it has been made or executed either by himself or by any other person, whether such person be living or dead at the time of such alteration; or

Thirdly.—Who dishonestly or fraudulently causes any person to sign, seal, execute or alter a document, knowing that such person by reason of unsoundness of mind or intoxication cannot, or that by reason of deception practised upon him he does not, know the contents of the document or the nature of the alteration.

Illustrations.

(*a*). A has a letter of credit upon B for rupees 10,000, written by Z. A, in order to defraud B, adds a cipher to the 10,000, and makes the sum 100,000, intending that it may be believed by B that Z so wrote the letter. A has committed forgery.

(*b*). A, without Z's authority, affixes Z's seal to a document purporting to be a conveyance of an estate from Z to A, with the intention of selling the estate to B, and thereby of obtaining from B the purchase-money. A has committed forgery.

(*c*). A picks up a cheque on a banker signed by B, payable to bearer, but without any sum having been inserted in the cheque. A fraudulently fills up the cheque by inserting the sum of ten thousand rupees. A commits forgery.

(*d*). A leaves with B, his agent, a cheque on a banker, signed by A, without inserting the sum payable, and authorizes B to fill up the cheque by inserting a sum not exceeding ten thousand rupees for the purpose of making certain payments. B fraudulently fills up the cheque by inserting the sum of twenty thousand rupees. B commits forgery.

(*e*). A draws a bill of exchange on himself in the name of B without B's authority, intending to discount it as a genuine bill with a banker, and intending to take up the bill on its maturity. Here, as A draws the bill with intent to deceive the banker by leading him to suppose that he had the security of B, and thereby to discount the bill, A is guilty of forgery.

(*f*). Z's will contains these words—" I direct that all my remaining property be equally divided between A, B and C." A dishonestly scratches out B's name, intending that it may be believed that the whole was left to himself and C. A has committed forgery.

(*g*). A endorses a Government promissory note and makes it payable to Z or his order, by writing on the bill the words " Pay to Z or his order," and signing the endorsement. B dishonestly erases the words " pay to Z or his order," and thereby converts the special endorsement into a blank endorsement. B commits forgery.

(*h*). A sells and conveys an estate to Z. A afterwards, in order to defraud Z of his estate, executes a conveyance of the same estate to B, dated six months earlier than the date of the conveyance to Z, intending it to be believed that he had conveyed the estate to B before he conveyed it to Z. A has committed forgery.

(*i*). Z dictates his will to A. A intentionally writes down a different legatee from the legatee named by Z, and by representing to Z that he has prepared the will according to his instructions, induces Z to sign the will. A has committed forgery.

(*j*). A writes a letter and signs it with B's name without B's authority, certifying that A is a man of good character and in distressed circumstances from unforeseen misfortune, intending by means of such letter to obtain alms from Z and other persons. Here, as A made a false document in order to induce Z to part with property, A has committed forgery.

(*k*). A, without B's authority, writes a letter and signs it in B's name, certifying to A's character, intending thereby to obtain employment under Z. A has committed forgery, inasmuch as he intended to deceive Z by the forged certificate, and thereby to induce Z to enter into an expressed or implied contract for service.

Explanation 1.—A man's signature of his own name may amount to forgery.

Illustrations.

(*a*). A signs his own name to a bill of exchange, intending that it may be believed that the bill was drawn by another person of the same name. A has committed forgery.

(*b*). A writes the word "accepted" on a piece of paper and signs it with Z's name, in order that B may afterwards write on the paper a bill of exchange drawn by B upon Z, and negotiate the bill as though it had been accepted by Z. A is guilty of forgery; and if B knowing the fact draws the bill upon the paper pursuant to A's intention, B is also guilty of forgery.

(c). A picks up a bill of exchange payable to the order of a different person of the same name. A endorses the bill in his own name, intending to cause it to be believed that it was endorsed by the person to whose order it was payable: here A has committed forgery.

(*d*). A purchases an estate sold under execution of a decree against B. B, after the seizure of the estate, in collusion with Z, executes a lease of the estate to Z at a nominal rent and for a long period, and dates the lease six months prior to the seizure, with intent to defraud A and to cause it to be believed that the lease was granted before the seizure. B, though he executes the lease in his own name, commits forgery by antedating it.

(*e*). A, a trader, in anticipation of insolvency, lodges effects with B for A's benefit, and with intent to defraud his creditors, and in order to give a colour to the transaction writes a promissory note binding himself to pay to B a sum for value received, and antedates the note, intending that it may be believed to have been

made before A was on the point of insolvency. A has committed forgery under the first head of the definition.

Explanation 2.—The making of a false document in the name of a fictitious person, intending it to be believed that the document was made by a real person, or in the name of a deceased person, intending it to be believed that the document was made by the person in his lifetime, may amount to forgery.

Illustration.

A draws a bill of exchange upon a fictitious person, and fraudulently accepts the bill in the name of such fictitious person with intent to negotiate it. A commits forgery.

Punishment of forgery.

465. Whoever commits forgery shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Forgery of record of Court or of public register.

466. Whoever forges a document purporting to be a record or proceeding of or in a Court of Justice, or a register of birth, baptism, marriage or burial, or a register kept by a public servant as such, or a certificate or document purporting to be made by a public servant in his official capacity, or an authority to institute or defend a suit, or to take any proceedings therein, or to confess judgment, or a power-of-attorney, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Forgery of valuable security or will.

467. Whoever forges a document which purports to be a valuable security or a will, or an authority to adopt a son, or which purports to give authority to any person to make or transfer any valuable security, or to receive the principal, interest, or dividends thereon, or to receive or deliver any money, moveable property, or valuable security, or any document purporting to be an acquittance or receipt acknowledging the payment of money, or an acquittance or receipt for the delivery of any moveable property or valuable security, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Forgery for the purpose of cheating.

468. Whoever commits forgery, intending that the document forged shall be used for the purpose of cheating, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Forgery for the purpose of harming

469. Whoever commits forgery, intending that the document forged shall harm the reputation of any party, or knowing that it is likely to be used for

the reputation of any person.

that purpose, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

"A forged document."

470. A false document made wholly or in part by forgery is designated "a forged document."

Using as genuine a forged document.

471. Whoever fraudulently or dishonestly uses as genuine any document which he knows or has reason to believe to be a forged document, shall be punished in the same manner as if he had forged such document.

Making or possessing counterfeit seal, &c., with intent to commit a forgery punishable under section 467.

472. Whoever makes or counterfeits any seal, plate or other instrument for making an impression, intending that the same shall be used for the purpose of committing any forgery which would be punishable under section 467, or with such intent has in his possession any such seal, plate or other instrument, knowing the same to be counterfeit, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Making or possessing counterfeit seal, &c., with intent to commit forgery punishable otherwise.

473. Whoever makes or counterfeits any seal, plate or other instrument for making an impression, intending that the same shall be used for the purpose of committing any forgery which would be punishable under any section of this chapter other than section 467, or with such intent has in his possession any such seal, plate or other instrument, knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Having possession of valuable security or will known to be forged with intent to use it as genuine.

474. Whoever has in his possession any document, knowing the same to be forged, and intending that the same shall fraudulently or dishonestly be used as genuine, shall, if the document is one of the description mentioned in section 466, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and if the document is one of the description mentioned in section 467, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Counterfeiting a device or mark used for authenticating documents described in section 467, or possessing counterfeit marked material.

475. Whoever counterfeits upon or in the substance of any material any device or mark used for the purpose of authenticating any document described in section 467, intending that such device or mark shall be used for the purpose of giving the appearance of authenticity to any document then forged or thereafter to be forged on such material, or who with such intent has in his possession any material upon or in the substance of which any such device or mark has been counterfeited, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

476. Whoever counterfeits upon or in the substance of any material any device or mark used for the purpose of authenticating any document other than the documents described in section 467, intending that such device or mark shall be used for the purpose of giving the appearance of authenticity to any document then forged or thereafter to be forged on such material, or who with such intent has in his possession any material upon or in the substance of which any such device or mark has been counterfeited, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Counterfeiting a device or mark used for authenticating documents other than those described in section 467, or possessing counterfeit marked material.

477. Whoever fraudulently or dishonestly, or with intent to cause damage or injury to the public or to any person, cancels, destroys or defaces, or attempts to cancel, destroy or deface, or secretes or attempts to secrete, any document which is or purports to be a will, or an authority to adopt a son, or any valuable security, or commits mischief in respect to such document, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Fraudulent cancellation, destruction, &c., of a will.

Of Trade and Property-marks.

478. A mark used for denoting that goods have been made or manufactured by a particular person or at a particular time or place, or that they are of a particular quality, is called a trade-mark.

Trade-mark.

479. A mark used for denoting that moveable property belongs to a particular person, is called a property-mark.

Property-mark

480. Whoever marks any goods, or any case, package or other receptacle containing goods, or uses any case, package, or other receptacle with any mark thereon, with the intention of causing it to be believed that the goods so marked, or any goods contained in any such case, package, or receptacle so marked, were made or manufactured by any person by whom they were not made or manufactured, or that they were made or manufactured at any time or place at which they were not made or manufactured, or that they are of a particular quality of which they are not, is said to use a false trade-mark.

Using a false trade-mark.

481. Whoever marks any moveable property or goods, or any case, package or other receptacle containing moveable property or goods, or uses any case, package or other receptacle having any mark thereon, with the intention of causing it to be believed that the property or goods so marked, or any property or goods contained in any case, package or other receptacle so marked, belong to a person to whom they do not belong, is said to use a false property-mark.

Using a false property-mark.

Punishment for fraudulently using false trade or property-mark.

482. Whoever uses any false trade-mark or any false property-mark with intent to deceive or injure any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Counterfeiting another's trade or property-mark.

483. Whoever, with intent to cause damage or injury to the public or to any person, knowingly counterfeits any trade or property-mark used by any other person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Counterfeiting property-mark used by public servant, or mark used by him to denote manufacture, quality, &c., of property.

484. Whoever, with intent to cause damage or injury to the public or to any person, knowingly counterfeits any property-mark used by a public servant, or any mark used by a public servant to denote that any property has been manufactured by a particular person or at a particular time or place, or that the same is of a particular quality, or has passed through a particular office, or that it is entitled to any exemption, or uses as genuine any such mark knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Fraudulent making or possessing die, plate, or instrument for counterfeiting public or private property or trade-mark.

485. Whoever makes or has in his possession any die, plate, or other instrument for the purpose of making or counterfeiting any public or private property or trade-mark, with intent to use the same for the purpose of counterfeiting such mark, or has in his possession any such property or trade-mark, with intent that the same shall be used for the purpose of denoting that any goods or merchandize were made or manufactured by any particular person or firm by whom they were not made, or at a time or place at which they were not made, or that they are of a particular quality of which they are not, or that they belong to a person to whom they do not belong, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Knowingly selling goods marked with a counterfeit property or trade-mark.

486. Whoever sells any goods with a counterfeit property or trade-mark, whether public or private, affixed to or impressed upon the same or upon any case, wrapper, or receptacle in which such goods are packed or contained, knowing that such mark is forged or counterfeit, or that the same has been affixed to or impressed upon any goods or merchandize not manufactured or made by the person or at the time or place indicated by such mark, or that they are not of the quality indicated by such mark, with intent to deceive, injure or damage any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Fraudulently making a false

487. Whoever fraudulently makes any false mark upon any package or receptacle containing goods, with intent to cause any public servant or any

other person to believe that such package or receptacle contains goods which it does not contain, or that it does not contain goods which it does contain, or that the goods contained in such package or receptacle are of a nature or quality different from the real nature or quality thereof, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

mark upon any package or receptacle containing goods.

488. Whoever fraudulently makes use of any such false mark with the intent last aforesaid, knowing such mark to be false, shall be punished in the manner mentioned in the last preceding section.

Punishment for using any such false mark.

489. Whoever removes, destroys or defaces any property-mark, intending or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Defacing property-mark with intent to cause injury.

CHAPTER XIX.

Of the Criminal Breach of Contracts of Service.

490. Whoever, being bound by a lawful contract to render his personal service in conveying or conducting any person or any property from one place to another place, or to act as servant to any person during a voyage or journey, or to guard any person or property during a voyage or journey, voluntarily omits so to do, except in the case of illness or ill-treatment, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to one hundred rupees, or with both.

Breach of contract of service during a voyage or journey.

Illustrations.

(*a*). A, a palanquin-bearer, being bound by legal contract to carry Z from one place to another, runs away in the middle of the stage. A has committed the offence defined in this section.

(*b*). A, a cooly, being bound by lawful contract to carry Z's baggage from one place to another, throws the baggage away. A has committed the offence defined in this section.

(*c*). A, a proprietor of bullocks, being bound by legal contract to convey goods on his bullocks from one place to another, illegally omits to do so. A has committed the offence defined in this section.

(*d*). A, by unlawful means, compels B, a cooly, to carry his baggage. B in the course of the journey puts down the baggage and runs away. Here, as B was not lawfully bound to carry the baggage, he has not committed any offence.

Explanation.—It is not necessary to this offence that the contract should be made with the person for whom the service is to be performed. It is sufficient if the contract is legally made with any person, either expressly or impliedly by the person who is to perform the service.

Illustration.

A contracts with a dák company to drive his carriage for a month. B employs the dák company to convey him on a journey, and during the month the company supplies B with a carriage which is driven by A. A in the course of the journey voluntarily leaves the carriage. Here, although A did not contract with B, A is guilty of an offence under this section.

Breach of contract to attend on and supply the wants of helpless persons.

491. Whoever, being bound by a lawful contract to attend on or to supply the wants of any person who, by reason of youth, or of unsoundness of mind, or of a disease or bodily weakness, is helpless or incapable of providing for his own safety or of supplying his own wants, voluntarily omits so to do, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both.

Breach of contract to serve at distant place to which servant is conveyed at master's expense.

492. Whoever, being bound by lawful contract in writing to work for another person as an artificer, workman or labourer, for a period not more than three years, at any place within British India to which by virtue of the contract he has been or is to be conveyed at the expense of such other, voluntarily deserts the service of that other during the continuance of his contract, or without reasonable cause refuses to perform the service which he has contracted to perform, such service being reasonable and proper service, shall be punished with imprisonment of either description for a term not exceeding one month, or with fine not exceeding double the amount of such expense, or with both; unless the employer has ill-treated him or neglected to perform the contract on his part.

CHAPTER XX.

Of Offences relating to Marriage.

Cohabitation caused by a man deceitfully inducing a belief of lawful marriage.

493. Every man who by deceit causes any woman who is not lawfully married to him to believe that she is lawfully married to him and to cohabit or have sexual intercourse with him in that belief, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

494. Whoever, having a husband or wife living, marries in any case in which such marriage is void by reason of its taking place during the life of such husband or wife, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Marrying again during lifetime of husband or wife.

Exception.—This section does not extend to any person whose marriage with such husband or wife has been declared void by a Court of competent jurisdiction, nor to any person who contracts a marriage during the life of a former husband or wife, if such husband or wife, at the time of the subsequent marriage, shall have been continually absent from such person for the space of seven years, and shall not have been heard of by such person as being alive within that time, provided the person contracting such subsequent marriage shall, before such marriage takes place, inform the person with whom such marriage is contracted, of the real state of facts so far as the same are within his or her knowledge.

495. Whoever commits the offence defined in the last preceding section, having concealed from the person with whom the subsequent marriage is contracted the fact of the former marriage, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Same offence with concealment of former marriage from person with whom subsequent marriage is contracted.

496. Whoever dishonestly or with a fraudulent intention goes through the ceremony of being married, knowing that he is not thereby lawfully married, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Marriage ceremony fraudulently gone through without lawful marriage.

497. Whoever has sexual intercourse with a person who is and whom he knows or has reason to believe to be the wife of another man, without the consent or connivance of that man, such sexual intercourse not amounting to the offence of rape, is guilty of the offence of adultery, and shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both. In such case the wife shall not be punishable as an abettor.

Adultery.

498. Whoever takes or entices away any woman who is and whom he knows or has reason to believe to be the wife of any other man, from that man, or from any person having the care of her on behalf of that man, with intent that she may have illicit intercourse with any person, or conceals or detains with that intent any such woman, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Enticing or taking away or detaining with a criminal intent a married woman.

CHAPTER XXI.

Of Defamation.

Defamation.

499. Whoever, by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person, intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said, except in the cases hereinafter excepted, to defame that person.

Explanation 1.—It may amount to defamation to impute anything to a deceased person, if the imputation would harm the reputation of that person if living, and is intended to be hurtful to the feelings of his family or other near relatives.

Explanation 2.—It may amount to defamation to make an imputation concerning a company or an association or collection of persons as such.

Explanation 3.—An imputation in the form of an alternative, or expressed ironically, may amount to defamation.

Explanation 4.—No imputation is said to harm a person's reputation, unless that imputation directly or indirectly, in the estimation of others, lowers the moral or intellectual character of that person, or lowers the character of that person in respect of his caste or of his calling, or lowers the credit of that person, or causes it to be believed that the body of that person is in a loathsome state, or in a state generally considered as disgraceful.

Illustrations.

(*a*). A says—"Z is an honest man; he never stole B's watch;" intending to cause it to be believed that Z did steal B's watch. This is defamation, unless it fall within one of the Exceptions.

(*b*). A is asked who stole B's watch. A points to Z, intending to cause it to be believed that Z stole B's watch. This is defamation, unless it fall within one of the Exceptions.

(*c*). A draws a picture of Z running away with B's watch, intending it to be believed that Z stole B's watch. This is defamation, unless it fall within one of the Exceptions.

Imputation of truth which public good requires to be made or published.

First Exception.—It is not defamation to impute anything which is true concerning any person, if it be for the public good that the imputation should be made or published. Whether or not it is for the public good is a question of fact.

Public conduct of public servants.

Second Exception.—It is not defamation to express in good faith any opinion whatever respecting the conduct of a public servant in the discharge of his public functions, or respecting his character, so far as his character appears in that conduct, and no farther.

Third Exception.—It is not defamation to express in good faith any opinion whatever respecting the conduct of any person touching any public question, and respecting his character, so far as his character appears in that conduct, and no farther.

Conduct of any person touching any public question.

Illustration.

It is not defamation in A to express in good faith any opinion whatever respecting Z's conduct in petitioning Government on a public question, in signing a requisition for a meeting on a public question, in presiding or attending at such a meeting, in forming or joining any society which invites the public support, in voting or canvassing for a particular candidate for any situation in the efficient discharge of the duties of which the public is interested.

Fourth Exception.—It is not defamation to publish a substantially true report of the proceedings of a Court of Justice, or of the result of any such proceedings.

Publication of reports of proceedings of Courts.

Explanation.—A Justice of the Peace or other officer holding an enquiry in open Court preliminary to a trial in a Court of Justice, is a Court within the meaning of the above section.

Fifth Exception.—It is not defamation to express in good faith any opinion whatever respecting the merits of any case, civil or criminal, which has been decided by a Court of Justice, or respecting the conduct of any person as a party, witness or agent, in any such case, or respecting the character of such person, as far as his character appears in that conduct, and no farther.

Merits of case decided in Court; or conduct of witnesses and others concerned.

Illustrations.

(*a*). A says—"I think Z's evidence on that trial is so contradictory that he must be stupid or dishonest." A is within this Exception if he says this in good faith; inasmuch as the opinion which he expresses respects Z's character as it appears in Z's conduct as a witness, and no farther.

(*b*). But if A says—"I do not believe what Z asserted at that trial, because I know him to be a man without veracity;"—A is not within this Exception, inasmuch as the opinion which he expresses of Z's character is an opinion not founded on Z's conduct as a witness.

Sixth Exception.—It is not defamation to express in good faith any opinion respecting the merits of any performance which its author has submitted to the judgment of the public, or respecting the character of the author, so far as his character appears in such performance, and no farther.

Merits of public performance.

Explanation.—A performance may be submitted to the judgment of the public expressly or by acts on the part of the author which imply such submission to the judgment of the public.

Illustrations.

(*a*). A person who publishes a book, submits that book to the judgment of the public.

(*b*). A person who makes a speech in public, submits that speech to the judgment of the public.

(*c*). An actor or singer who appears on a public stage, submits his acting or singing to the judgment of the public.

(*d*). A says of a book published by Z—"Z's book is foolish, Z must be a weak man. Z's book is indecent, Z must be a man of impure mind." A is within this Exception if he says this in good faith, inasmuch as the opinion which he expresses of Z respects Z's character only so far as it appears in Z's book, and no farther.

(*e*.) But if A says—"I am not surprised that Z's book is foolish and indecent, for he is a weak man and a libertine;" A is not within this Exception, inasmuch as the opinion which he expresses of Z's character is an opinion not founded on Z's book.

Censure passed in good faith by person having lawful authority over another.

Seventh Exception.—It is not defamation in a person having over another any authority, either conferred by law, or arising out of a lawful contract made with that other, to pass in good faith any censure on the conduct of that other in matters to which such lawful authority relates.

Illustrations.

A Judge censuring in good faith the conduct of a witness, or of an officer of the Court; a head of a department censuring in good faith those who are under his orders; a parent censuring in good faith a child in the presence of other children; a schoolmaster, whose authority is derived from a parent, censuring in good faith a pupil in the presence of other pupils; a master censuring a servant in good faith for remissness in service; a banker censuring in good faith the cashier of his bank for the conduct of such cashier as such cashier—are within this Exception.

Accusation preferred in good faith to authorized person.

Eighth Exception.—It is not defamation to prefer in good faith an accusation against any person to any of those who have lawful authority over that person with respect to the subject-matter of accusation.

Illustrations.

If A in good faith accuses Z before a Magistrate; if A in good faith complains of the conduct of Z, a servant, to Z's master; if A in good faith complains of the conduct of Z, a child, to Z's father—A is within this Exception.

Imputation in good faith by person for protection of his interests.

Ninth Exception.—It is not defamation to make an imputation on the character of another, provided that the imputation be made in good faith for the protection of the interests of the person making it, or of any other person, or for the public good.

Illustrations.

(*a*). A, a shop-keeper, says to B, who manages his business—"Sell nothing to Z unless he pays you ready money, for I have no opinion of his honesty." A is within the Exception, if he has made this imputation on Z in good faith for the protection of his own interests.

(*b*). A, a Magistrate, in making a report to his superior officer, casts an imputation on the character of Z. Here, if the imputation is made in good faith, and for the public good, A is within the Exception.

Tenth Exception.—It is not defamation to convey a caution, in good faith, to one person against another, provided that such caution be intended for the good of the person to whom it is conveyed, or of some person in whom that person is interested, or for the public good.

Caution intended for good of person to whom conveyed or for public good.

500. Whoever defames another shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

Punishment for defamation.

501. Whoever prints or engraves any matter, knowing or having good reason to believe that such matter is defamatory of any person, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

Printing or engraving matter known to be defamatory.

502. Whoever sells or offers for sale any printed or engraved substance containing defamatory matter, knowing that it contains such matter, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both

Sale of printed or engraved substance containing defamatory matter.

CHAPTER XXII.

Of Criminal Intimidation, Insult and Annoyance.

503. Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.

Criminal intimidation.

Explanation.—A threat to injure the reputation of any deceased person in whom the person threatened is interested, is within this section.

Illustration.

A, for the purpose of inducing B to desist from prosecuting a civil suit, threatens to burn B's house. A is guilty of criminal intimidation.

504. Whoever intentionally insults, and thereby gives provocation to, any person, intending or knowing it to be likely that such provocation will cause

Intentional insult with in-

tent to provoke a breach of the peace.

him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Circulating false report with intent to cause mutiny or an offence against the State, &c.

505. Whoever circulates or publishes any statement, rumour or report which he knows to be false, with intent to cause any officer, soldier or sailor in the Army or Navy of the Queen to mutiny, or with intent to cause fear or alarm to the public, and thereby to induce any person to commit an offence against the State or against the public tranquillity, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Punishment for criminal intimidation. If threat be to cause death or grievous hurt, &c.

506. Whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both; and if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or transportation, or with imprisonment for a term which may extend to seven years, or to impute unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Criminal intimidation by an anonymous communication.

507. Whoever commits the offence of criminal intimidation by an anonymous communication, or having taken precaution to conceal the name or abode of the person from whom the threat comes, shall be punished with imprisonment of either description for a term which may extend to two years, in addition to the punishment provided for the offence by the last preceding section.

Act caused by inducing a person to believe that he will be rendered an object of the Divine displeasure.

508. Whoever voluntarily causes or attempts to cause any person to do anything which that person is not legally bound to do, or to omit to do anything which he is legally entitled to do, by inducing or attempting to induce that person to believe that he or any person in whom he is interested will become or will be rendered by some act of the offender an object of Divine displeasure if he does not do the thing which it is the object of the offender to cause him to do, or if he does the thing which it is the object of the offender to cause him to omit, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Illustrations.

(*a*). A sits dharna at Z's door with the intention of causing it to be believed that, by so sitting, he renders Z an object of Divine displeasure. A has committed the offence defined in this section.

(*b*). A threatens Z that unless Z performs a certain act, A will kill one of A's own children, under such circumstances that the killing would be believed to render Z an object of Divine displeasure. A has committed the offence defined in this section.

509. Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Word or gesture intended to insult the modesty of a woman.

510. Whoever, in a state of intoxication, appears in any public place, or in any place which it is a trespass in him to enter, and there conducts himself in such a manner as to cause annoyance to any person, shall be punished with simple imprisonment for a term which may extend to twenty-four hours, or with fine which may extend to ten rupees, or with both.

Misconduct in public by a drunken person.

CHAPTER XXIII.

Of Attempts to commit Offences.

511. Whoever attempts to commit an offence punishable by this Code with transportation or imprisonment, or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence, shall, where no express provision is made by this Code for the punishment of such attempt, be punished with transportation or imprisonment of any description provided for the offence, for a term of transportation or imprisonment which may extend to one-half of the longest term provided for that offence, or with such fine as is provided for the offence, or with both.

Punishment for attempting to commit offences punishable with transportation or imprisonment.

Illustrations.

(*a*). A makes an attempt to steal some jewels by breaking open a box, and finds, after so opening the box, that there is no jewel in it. He has done an act towards the commission of theft, and therefore is guilty under this section.

(*b*). A makes an attempt to pick the pocket of Z by thrusting his hand into Z's pocket. A fails in the attempt in consequence of Z's having nothing in his pocket. A is guilty under this section.

Note.—Sections 13, 14 and 15 of Act No. XXVII of 1870 *(to amend the Indian Penal Code)* enact as follows:—

13. The following chapters of the same Code, namely, IV (*General Exceptions*), V (*Of Abetment*), and XXIII (*Of Attempts to commit Offences*) shall apply to offences punishable under the

Application of certain chapters of Penal Code.

ACT No. XLVII OF 1860.

Received the Governor General's assent on the 6th October 1860.

An Act for giving to the Universities of Calcutta, Madras and Bombay the power of conferring Degrees in addition to those mentioned in Acts II, XXII and XXVII of 1857.

Preamble.

WHEREAS it is expedient to give to the Universities of Calcutta, Madras and Bombay, established under Acts II, XXII and XXVII of 1857, the power of conferring degrees other than the degrees in that Act expressly provided for; It is enacted as follows:—

Power of Universities to confer degrees.

1. It shall be competent to the Chancellor, Vice-Chancellor and Fellows of the Universities of Calcutta, Madras or Bombay, respectively, to confer such degrees and to grant such diplomas or licenses in respect of degrees as the said Chancellor, Vice-Chancellor and Fellows of any such University shall have appointed or shall appoint by any bye-laws or regulations made and passed or to be made or passed by them in the manner provided in the said Acts, and submitted to and approved by the Governor General in Council as far as regards the University of Calcutta, or by the Governor in Council of Madras or Bombay as regards the Universities of Madras and Bombay respectively.

Construction.

2. All the provisions contained in the said Acts II, XXII and XXVII of 1857, with respect to the degrees therein mentioned and to the examinations for those degrees, shall apply to any degrees which may be conferred under this Act and to the examinations for such degrees.

ACT No. LII OF 1860.

Received the Governor General's assent on the 26th December 1860.

An Act to amend Act XVIII of 1854 (*relating to Railways in India.*)

Preamble.

WHEREAS it is expedient to amend the law relating to offences declared to be punishable under Act XVIII of 1854 *(relating to Railways in India)* on

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said sections 121A, 294A and 304A; and the said chapters IV and V shall apply to offences punishable under the said sections 124A and 225A.

Sanction to prosecution under section 121A, 124A or 294A.

14. No charge of an offence punishable under any of the said sections 121A, 124A and 294A shall be entertained by any Court unless the prosecution be instituted by order of, or under authority from, the Local Government.

Saving of special and local laws.

15. Nothing contained in this Act shall be taken to affect any of the provisions of any special or local law.

conviction before a Justice of the Peace for any of the presidency towns of Calcutta, Madras and Bombay; It is enacted as follows :—

1. If any person is charged before a Police Magistrate of a presidency town with committing any offence which, under section 27 or section 28 of Act XVIII of 1854, is punishable on conviction with imprisonment, and if such Police Magistrate shall deem it probable that, in consequence of the probable departure of any material witness from the local limits of the jurisdiction of such Magistrate, the prosecution of such offender by indictment in the Supreme Court will be ineffectual, such Magistrate may try the offender, and on conviction may award a sentence not exceeding six months' imprisonment with or without hard labour.

Police Magistrate may in certain cases try offences punishable under sections 27 and 28, Act XVIII of 1854, with imprisonment.

2. The jurisdiction given to Police Magistrates under the foregoing section may be exercised whether the offence shall be charged to have been committed within the local limits of the jurisdiction of such Magistrates or not, and any person hereby made punishable by a Police Magistrate shall be punishable upon summary conviction; but such jurisdiction shall only be exercised if the witnesses necessary for the prosecution of the offender are to be found within the local limits of the jurisdiction of the Police Magistrate before whom the offender is charged.

Extent of jurisdiction.

3. This Act shall be taken to be, and shall be read as, part of Act XVIII of 1854.

Construction.

ACT No. V OF 1861.

Received the Governor General's assent on the 22nd March 1861.

An Act for the Regulation of Police.

WHEREAS it is expedient to re-organize the Police and to make it a more efficient instrument for the prevention and detection of crime; It is enacted as follows :—

Preamble.

1. The following words and expressions in this Act shall have the meaning assigned to them, unless there be something in the subject or context repugnant to such construction, that is to say :—

Interpretation-clause.

The words "Magistrate of the District" shall mean the chief officer charged with the executive administration of a district and exercising the powers of a Magistrate, by whatever designation the chief officer charged with such executive administration is styled :

"Magistrate of the District."

The word "Magistrate" shall include all persons within the general police district, exercising all or any of the powers of a Magistrate :

"Magistrate."

"Police."

The word "Police" shall include all persons who shall be enrolled under this Act:

"General Police District."

The words "General Police District" shall embrace any presidency, province or place, or any part of any presidency, province or place, in which this Act shall be ordered to take effect:

"Property."

The word "property" shall include any moveable property, money or valuable security:

Number.

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number:

Gender.

Words importing the masculine gender shall include females:

"Person."

The word "person" shall include a company or corporation:

"Month"

The word "month" shall mean a calendar month:

"Cattle."

The word "cattle" shall, besides horned cattle, include elephants, camels, horses, asses, mules, sheep, goats and swine.

Constitution of the force.

2[a]. The entire Police-establishment under a Local Government shall, for the purposes of this Act, be deemed to be one Police-force, and shall be formally enrolled; and shall consist of such number of officers and men, and shall be constituted in such manner, and the members of such force shall receive such pay, as shall from time to time be ordered by the Local Government, subject to the sanction of the Governor General of India in Council.

Superintendence in the Local Government.

3. The superintendence of the Police throughout a general police district shall vest in and, subject to the general control of the Governor General of India in Council, shall be exercised by the Local Government[b] to which such district is subordinate; and except as authorized under the provisions of this Act, no person, officer or Court shall be empowered by the Local Government to appoint, supersede or control any Police-functionary.

Inspector General of Police, &c.

4. The administration of the Police throughout a general police district shall be vested in an officer to be styled the Inspector General of Police, and in such Deputy Inspectors General, and Assistant Inspectors General, as to the Local Government shall seem fit.

The administration of the Police throughout the local jurisdiction of the Magistrate of the District shall, under the general control and direction of such Magistrate, be vested in a District Superintendent and such Assistant District Superintendents as the Local Government shall consider necessary.

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[a] Section 2, so far as it relates to the provinces under the control of the Lieutenant Governor of Bengal, was repealed by Bengal Act No. VII of 1869.

[b] The powers of a Local Government under this Act (except section 4) have been delegated (under Act No. XXXII of 1867) to the Chief Commissioners of Oudh, the Central Provinces and British Burma, *Gazette of India*, March 7, 1868, p. 358; *ib.*, June 12, 1869, p. 18.

The Inspector General and other officers abovementioned shall from time to time be appointed by the Local Government and may be removed by the same authority.

5. The Inspector General of Police shall have the full powers of a Magistrate throughout the general police district; but shall exercise those powers subject to such limitation as may from time to time be imposed by the Local Government.

Powers of Inspector General. Exercise of powers.

6. The Local Government may vest any Deputy Inspector General, Assistant Inspector General, District Superintendent or Assistant District Superintendent of Police with all or any of the powers of a Magistrate within such limits as it may deem proper; but such officers respectively shall exercise the powers with which they shall be so invested only so far as may be necessary for the preservation of the peace, the prevention of crime, and the detection, apprehension and detention of offenders in order to their being brought before a Magistrate, and, so far as may be necessary, for the performance of the duties assigned to them by this Act.

Investing Police-officers with Magistrate's powers. Extent to which those powers exerciseable.

7. The appointment of all Police-officers other than those mentioned in section 4 of this Act shall, under such rules as the Local Government shall from time to time sanction, rest with the Inspector General, Deputy Inspectors General, Assistant Inspectors General and District Superintendents of Police, who may, under such rules as aforesaid, at any time dismiss, suspend or reduce any Police-officer whom they shall think remiss or negligent in the discharge of his duty or unfit for the same, or fine any Police-officer to any amount not exceeding one month's pay who shall discharge his duty in a careless or negligent manner, or who by any act of his own shall render himself unfit for the discharge thereof.

Appointment, dismissal, &c., of inferior officers.

8. Every Police-officer, so appointed, shall receive on his appointment a certificate in the form annexed to this Act, under the seal of the Inspector General or such other officer as the Inspector General shall appoint, by virtue of which the person holding such certificate shall be vested with the powers, functions and privileges of a Police-officer.

Certificates to Police-officers.

Such certificate shall cease to have effect whenever the person named in it is suspended[a] or dismissed or otherwise removed from employment in the Police-force, and shall be immediately surrendered to the superior officer of such person or to some other officer empowered to receive the same.

Surrender of certificate.

9. No Police-officer shall be at liberty to withdraw himself from the duties of his office unless expressly allowed to do so by the District Superintendent or by some other officer authorized to grant such permission, or, without

Police-officers not to resign without leave or two months' notice.

[a] *Reg.* v. *Dinanath Gangooly*, 8 Beng., Appendix, 59.

the leave of the District Superintendent, to resign his office, unless he shall have given to his superior officer notice in writing, for a period of not less than two months, of his intention to resign.

Police-officers not to engage in other employment.

10. No Police-officer shall engage in any employment or office whatever, other than his duties under this Act, unless expressly permitted to do so in writing by the Inspector General.

11. [*Repealed by Act No. XVI of* 1874.]

Power of Inspector General to make rules.

12. The Inspector General of Police may, from time to time, subject to the approval of the Local Government, frame such orders and rules as he shall deem expedient, relative to the organization, classification and distribution of the Police-force, the places at which the members of the force shall reside, and the particular services to be performed by them; their inspection, the description of arms, accoutrements and other necessaries to be furnished to them; the collecting and communicating by them of intelligence and information; and all such other orders and rules relative to the Police-force as the Inspector General shall, from time to time, deem expedient for preventing abuse or neglect of duty, and for rendering such force efficient in the discharge of its duties.

Additional Police-officers employed at cost of individuals.

13. It shall be lawful for the Inspector General of Police, or any Deputy Inspector General or Assistant Inspector General, or for the District Superintendent, subject to the general direction of the Magistrate of the District, on the application of any person showing the necessity thereof, to depute any additional number of Police-officers to keep the peace at any place within the general police district, and for such time as shall be deemed proper. Such force shall be exclusively under the orders of the District Superintendent, and shall be at the charge of the person making the application. Provided that it shall be lawful for the person on whose application such deputation shall have been made, on giving one month's notice in writing to the Inspector General, Deputy Inspector General or Assistant Inspector General, or to the District Superintendent, to require that the Police-officers so deputed shall be withdrawn; and such person shall be relieved from the charge of such additional force from the expiration of such notice.

Appointment of additional force in the neighbourhood of railway and other works.

14. Whenever any railway, canal, or other public work, or any manufactory or commercial concern, shall be carried on, or be in operation in any part of the country, and it shall appear to the Inspector General that the employment of an additional Police-force in such place is rendered necessary by the behaviour or reasonable apprehension of the behaviour of the persons employed upon such work, manufactory or concern, it shall be lawful for the Inspector General, with the consent of the Local Government, to depute such additional

force to such place, and to employ the same so long as such necessity shall continue, and to make orders from time to time upon the person having the control or custody of the funds used in carrying on such work, manufactory or concern, for the payment of the extra force so rendered necessary, and such person shall thereupon cause payment to be made accordingly.

Quartering of additional Police in disturbed or dangerous districts.

15. It shall be lawful for the Inspector General of Police, with the sanction of the Local Government, to be notified by proclamation in the Government Gazette, and in such other manner as the Local Government shall direct, to employ any Police-force in excess of the ordinary fixed complement to be quartered in any part of the general police district which shall be found to be in a disturbed or dangerous state, or in any part of the general police district in which, from the conduct of the inhabitants, he may deem it expedient to increase the number of Police. The inhabitants of the part of the country described in the notification shall be charged with the cost of such additional Police-force, and the Magistrate of the District, after enquiry if necessary, shall assess the proportion in which the amount is to be paid by the inhabitants according to his judgment of their respective means.

Payment of money for support of additional Police-force.

16. All monies payable under the last three preceding sections, on account of any additional Police-force employed as therein directed, shall be recoverable under the warrant of a Magistrate by distress and sale of the goods of the defaulter within the district of such Magistrate, or by suit in any competent Court; and the monies paid on this account or so recovered shall be credited to a fund to be called "The General Police Fund," and shall be applied to the maintenance of the Police-force under such orders as the Local Government shall pass.

Special Police-officers.

17. When it shall appear that any unlawful assembly, or riot, or disturbance of the peace has taken place, or may be reasonably apprehended, and that the Police-force ordinarily employed for preserving the peace is not sufficient for its preservation and for the protection of the inhabitants and the security of property in the place where such unlawful assembly, or riot, or disturbance of the peace has occurred, or is apprehended, it shall be lawful for any Police-officer not below the rank of inspector to apply to the nearest Magistrate to appoint so many of the residents of the neighbourhood as such Police-officer may require to act as special Police-officers for such time and within such limits as he shall deem necessary; and the Magistrate to whom such application is made shall, unless he see cause to the contrary, comply with the application.

Powers of special Police-officers.

18. Every special Police-officer so appointed shall have the same powers, privileges and protection, and shall be liable to perform the same duties, and

shall be amenable to the same penalties, and be subordinate to the same authorities as the ordinary officers of Police.

Refusal to serve as special Police-officers.

19. If any person being appointed a special Police-officer as aforesaid shall, without sufficient excuse, neglect or refuse to serve as such, or to obey such lawful order or direction as may be given to him for the performance of his duties, he shall be liable, upon conviction before a Magistrate, to a fine not exceeding fifty rupees for every such neglect, refusal or disobedience.

Authority to be exercised by Police-officers.

20. Police-officers enrolled under this Act shall not exercise any authority, except the authority provided for a Police-officer under this Act and any Act which shall hereafter be passed for regulating criminal procedure.

Village Police-officers.

21. Nothing in this Act shall affect any hereditary or other village Police-officer, unless such officer shall be enrolled as a Police-officer under this Act. When so enrolled, such officer shall be bound by the provisions of the last preceding section. No hereditary or other village Police-officer shall be enrolled without his consent and the consent of those who have the right of nomination.

Police Chaukídárs in the Presidency of Fort William.

If any Police-officer appointed under Act XX of 1856 (*to make better provision for the appointment and maintenance of Police Chaukídárs in Cities, Towns, Stations, Suburbs and Bázárs in the Presidency of Fort William in Bengal*) is employed out of the district for which he shall have been appointed under that Act, he shall not be paid out of the rates levied under the said Act for that district.

Police-officers always on duty and may be employed in any part of district.

22. Every Police-officer shall, for all purposes in this Act contained, be considered to be always on duty, and may at any time be employed as a Police-officer in any part of the general police district.

Duties of Police-officers.

23. It shall be the duty of every Police-officer promptly to obey and execute all orders and warrants lawfully issued to him by any competent authority; to collect and communicate intelligence[a] affecting the public peace; to prevent the commission of offences and public nuisances; to detect and bring offenders to justice, and to apprehend all persons whom he is legally authorized to apprehend, and for whose apprehension sufficient ground exists: and it shall be lawful for every Police-officer, for any of the purposes mentioned in this section, without a warrant, to enter and inspect any drinking-shop, gaming-house, or other place of resort of loose and disorderly characters.

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[a] See Act No. XLV of 1860, sec. 177.

24. It shall be lawful for any Police-officer to lay any information before a Magistrate, and to apply for a summons, warrant, search-warrant or such other legal process as may by law issue against any person committing an offence, and to prosecute such person up to final judgment.

Police-officer may lay information, &c.

25. It shall be the duty of every Police-officer to take charge of all unclaimed property, and to furnish an inventory thereof to the Magistrate of the District.

The Police-officers shall be guided as to the disposal of such property by such orders as they shall receive from the Magistrate of the District.

Police-officers to take charge of unclaimed property, and be subject to Magistrate's orders as to disposal.

26. The Magistrate of the District may detain the property and issue a proclamation, specifying the articles of which it consists and requiring any person who has any claim thereto to appear and establish his right to the same within six months from the date of such proclamation.

Magistrate may detain property and issue proclamation.

27. If no person shall within the period allowed claim such property, it may be sold under the orders of the Magistrate of the District, and the proceeds shall be at the disposal of Government.

Confiscation of property if no claimant appear.

28. Every person, having ceased to be an enrolled Police-officer under this Act, who shall not forthwith deliver up his certificate, and the clothing, accoutrements, appointments and other necessaries which shall have been supplied to him for the execution of his duty, shall be liable, on conviction before a Magistrate, to a penalty not exceeding two hundred rupees, or to imprisonment, with or without hard labour, for a period not exceeding six months, or to both.

Persons refusing to deliver up certificate, &c., on ceasing to be Police-officers.

29. Every Police-officer[a] who shall be guilty of any violation of duty or wilful breach or neglect of any rule or regulation or lawful order made by competent authority; or who shall withdraw from the duties of his office without permission, or without having given previous notice for the period of two months; or who shall engage without authority in any employment other than his Police-duty; or who shall be guilty of cowardice, or who shall offer any unwarrantable personal violence to any person in his custody, shall be liable, on conviction before a Magistrate, to a penalty not exceeding three months' pay, or to imprisonment, with or without hard labour, for a period not exceeding three months, or to both.

Penalties for neglect of duty, &c.

30. The District Superintendent and Assistant District Superintendent of Police may, as occasion requires, direct the conduct of all assemblies and processions on the public roads, or in the public streets or thoroughfares, and prescribe the routes by which, and the times at which, such processions may pass.

Regulation of public processions, &c.

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[a] See 8 Beng., Appendix, 58: 3 N.-W. P. 128.

Music in the streets.

They may also regulate the use of music in the streets on the occasion of festivals and ceremonies.

Police to keep order in public roads, &c.

31. It shall be the duty of the Police to keep order on the public roads, and in the public streets, thoroughfares, ghauts and landing-places, and at all other places of public resort, and to prevent obstructions on the occasions of assemblies and processions on the public roads and in the public streets, or in the neighbourhood of places of worship during the time of public worship, and in any case when any road, street, thoroughfare, ghaut or landing-place may be thronged or may be liable to be obstructed.

Penalty for disobeying orders issued under last two sections, &c.

32. Every person opposing or not obeying the orders issued under the last two preceding sections, or violating the conditions of any license granted by the District Superintendent or Assistant District Superintendent of Police for the use of music, or for the conductof assemblies and processions, shall be liable, on conviction before a Magistrate, to a fine not exceeding two hundred rupees.

Saving of control of Magistrate of District.

33. Nothing in the last three preceding sections shall be deemed to interfere with the general control of the Magistrate of the District over the matters referred to therein.

Punishment for certain offences on roads, &c.

34.[a] Any person who, on any road or in any street or thoroughfare within the limits of any town to which this section shall be specially extended by the Local Government, commits any of the following offences, to the obstruction, inconvenience, annoyance, risk, danger or damage of the residents and passengers, shall, on conviction before a Magistrate, be liable to a fine not exceeding fifty rupees, or to imprisonment not exceeding eight days; and it shall be lawful for any Police-officer to take into custody, without a warrant, any person who within his view commits any of such offences, namely :—

Power of Police-officers.

Slaughtering cattle, furious riding, &c:

First.—Any person who slaughters any cattle or cleans any carcass; any person who rides or drives any cattle recklessly or furiously, or trains or breaks any horse or other cattle:

Cruelty to animals:

Second.—Any person who wantonly or cruelly beats, abuses or tortures any animal:

Obstructing passengers:

Third.—Any person who keeps any cattle or conveyance of any kind standing longer than is required for loading or unloading or for taking up or setting down passengers, or who leaves any conveyance in such a manner as to cause inconvenience or danger to the public:

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[a] This section is extendible to Military Cantonments, Act No. XXII of 1864, section 12. And see Acts No. X of 1872 (the Civil Procedure Code), section 529.
" IV of 1873 (Panjáb Municipalities), section 14 (*a*).
" XI of 1873 (Central Provinces), section 14 (*a*).
" XV of 1873 (North-Western Provinces and Oudh), sections 30, 35.
" VII of 1874 (British Burma), section 33.

Fourth.—Any person who exposes any goods for sale: Exposing goods for sale:

Fifth.—Any person who throws or lays down any dirt, filth, rubbish or any stones or building materials; or who constructs any cowshed, stable or the like, or who causes any offensive matter to run from any house, factory, dung-heap or the like: Throwing dirt into street:

Sixth.—Any person who is found drunk or riotous, or who is incapable of taking care of himself: Being drunk or riotous:

Seventh.—Any person who wilfully and indecently exposes his person or any offensive deformity or disease, or commits nuisance by easing himself, or by bathing or washing in any tank or reservoir not being a place set apart for that purpose: Indecent exposure of person:

Eighth.—Any person who neglects to fence in, or duly to protect, any well, tank or other dangerous place or structure. Neglect to protect dangerous places.

35. In all cases of convictions under this Act the officer trying the case shall be limited to his ordinary jurisdiction as to the amount of fine or imprisonment which he may inflict; provided that any charge against a Police-officer above the rank of a constable under this Act shall be enquired into and determined only by an officer exercising the powers of a Magistrate. Jurisdiction. Proviso.

36. Nothing contained in this Act shall be construed to prevent any person from being prosecuted under any other Regulation or Act for any offence made punishable by this Act, or from being liable under any other Regulation or Act to any other or higher penalty or punishment than is provided for such offence by this Act. Power to prosecute under other law not affected.

Provided that no person shall be punished twice for the same offence. Proviso.

37. All forfeitures or penalties imposed under the authority of this Act for offences punishable by a Magistrate may, in case of non-payment thereof, be levied by distress and sale of the property of the offender within the limits of the jurisdiction of the Magistrate of the District, by warrant under the hand of the Magistrate who made the order. Levy of forfeiture and penalties by distress.

38. In case any such forfeiture or penalty shall not be forthwith paid, the Magistrate may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of the Magistrate for his appearance at such place and time as shall be appointed for the return of the warrant of distress. Procedure until return is made to warrant of distress.

39. If upon the return of such warrant it shall appear that no sufficient distress can be had whereon to levy such fine, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of the Magistrate by the confession of the offender or otherwise, that he has not sufficient property Imprisonment if distress not sufficient.

whereupon such fine or sum of money could be levied if a warrant of distress were issued, the Magistrate may, by warrant under his hand, commit the offender, provided he is not a European British subject, to prison, there to be imprisoned, according to the discretion of the Magistrate, for any term not exceeding two calendar months when the amount of fine shall not exceed fifty rupees, and for any term not exceeding four calendar months when the amount shall not exceed one hundred rupees, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount.

Levy of fines from European British subjects.

40. If the offender be a European British subject, the Magistrate shall record the facts and transmit such record to the District Court of the district wherein the offender is convicted, and the amount of the fine and costs (if any) shall be levied in the manner provided for the execution of decrees of the civil Court.

Rewards to Police and informers payable to General Police Fund.

41. All sums paid for the service of process by Police-officers, and all rewards, forfeitures and penalties, or shares of rewards, forfeitures and penalties, which by law are payable to informers, shall, when the information is laid by a Police-officer, be paid into the General Police Fund.[a]

Limitation of action.

42. All actions and prosecutions against any person, which may be lawfully brought for anything done or intended to be done under the provisions of this Act, or under the general Police-powers hereby given, shall be commenced within three months after the act complained of shall have been committed and not otherwise;[b] and notice in writing of such action and of the cause thereof shall be given to the defendant, or to the District Superintendent or an Assistant District Superintendent of the district in which the act was committed, one month at least before the commencement of the action.

Tender of amends.

No plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into Court after such action brought, by or on behalf of the defendant, and though a decree shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant, unless the Judge before whom the trial is held shall certify his approbation of the action.

Proviso.

Provided always that no action shall in any case lie where such officers shall have been prosecuted criminally for the same act.

Plea that act was done under warrant.

43. When any action or prosecution shall be brought or any proceedings held against any Police-officer for any act done by him in such capacity, it

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[a] See section 16 supra.

[b] So much of this section as relates to the limitation of suits was repealed by Act No. IX of 1871, section 2.

shall be lawful for him to plead that such act was done by him under the authority of a warrant issued by a Magistrate.

Such plea shall be proved by the production of the warrant directing the act, and purporting to be signed by such Magistrate, and the defendant shall thereupon be entitled to a decree in his favour, notwithstanding any defect of jurisdiction in such Magistrate. No proof of the signature of such Magistrate shall be necessary, unless the Court shall see reason to doubt its being genuine.

Provided always that any remedy which the party may have against the authority issuing such warrant shall not be affected by anything contained in this section. **Proviso.**

44. It shall be the duty of every officer in charge of a Police-station to keep a general diary in such form as shall from time to time be prescribed by the Local Government, and to record therein all complaints and charges preferred, the names of all persons arrested, the names of the complainants, the offences charged against them, the weapons or property that shall have been taken from their possession or otherwise, and the names of the witnesses who shall have been examined. **Police-officers to keep diary.**

The Magistrate of the District shall be at liberty to call for and inspect such diary.

45. The Local Government may direct the submission of such returns by the Inspector General and other Police-officers as to such Local Government shall seem proper, and may prescribe the form in which such returns shall be made. **Local Government may prescribe form of returns.**

46. This Act shall not take effect in any presidency, province or place unless the same shall be extended to such presidency, province or place by the Governor General of India in Council by an order to be published in the Government Gazette. **Scope of Act.**

When the Act shall have been so extended it shall be carried into effect in such presidency, province or place as the Local Government, by an order to be published in the official Gazette, shall direct.

47. It shall be lawful for the Local Government, in carrying this Act into effect in any part of the territories subject to such Local Government, to declare that any authority which now is or may be exercised by the Magistrate of the District over any village-watchman or other village-police-officer for the purposes of Police, shall be exercised, subject to the general control of the Magistrate of the District, by the District Superintendent of Police. **Authority of District Superintendent of Police over village-police.**

FORM (*see section* 8.)

A. B. has been appointed a member of the Police-force, under Act V of 1861, and is vested with the powers, functions and privileges of a Police-officer.

ACT No. IX[a] OF 1861.

Received the Governor General's assent on the 24th April 1861.

An Act to amend the law relating to Minors.

Preamble.

WHEREAS it is expedient to amend the law for hearing suits relative to the custody and guardianship of minors; It is enacted as follows :—

Application.

1. Any relative or friend of a minor[b] who may desire to prefer any claim in respect of the custody or guardianship of such minor may make an application by petition, either in person or by a duly constituted agent, to the principal civil Court of original jurisdiction in the district by which such application, if preferred in the form of a regular suit, would be cognizable, and shall set forth the grounds of his application in the petition.

Notice of application.

The Court, if satisfied by an examination of the petitioner or his agent, if he appear by agent, that there is ground for proceeding, shall give notice of the application to the person named in the petition as having the custody or being in the possession of the person of such minor, as well as to any other person to whom the Court may think it proper that such notice should be given, and shall fix as early a day as may be convenient for the hearing of the petition and the determination of the right to the custody or guardianship of such minor.

Production, and temporary custody and protection, of minor.

2. The Court may direct that the person having the custody or being in possession of the person of such minor shall produce him or her in Court or in any other place appointed by the Court on the day fixed for the hearing of the petition or at any other time, and may make such order for the temporary custody and protection of such minor as may appear proper.

Court, after hearing statements of parties, &c., to make order as to custody or guardianship.

3. On the day appointed for the hearing of the petition or as soon after as may be practicable, the Court shall hear the statements of the parties or their agents if they appear by agents, and such evidence as they or their agents may adduce, and thereupon shall proceed to make such order as it shall think fit in respect to the custody or guardianship of such minor and the costs of the case.

Procedure.

4. In cases instituted under this Act, the Court shall be guided by the procedure prescribed in Act VIII of 1859 (*for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter*) in so far as the same shall be applicable and material; and any order made by the Court may be enforced as if such order had been made in a regular suit.

Appeal.

5. An appeal shall lie to the Sadr Court from any order made by a lower Court under this Act, under the rules applicable to regular appeals to such

[a] Declared to apply to the whole of British India, except the Scheduled Districts, Act No. XV of 1874. It does not apply to European British Minors, 2 N.-W. P., 79, 81. As to them, see Act No. XIII of 1874.

[b] See Act No. IX of 1875, section 3.

Sadr Court, except that the petition of appeal may be written on a stamp-paper of the value prescribed for petitions to the Sadr Court.

6. Any order passed under this Act in respect to the custody or guardianship of a minor shall not be liable to be contested in a regular suit. Orders not contestable in regular suit.

7. Nothing in this Act shall be taken to interfere with the jurisdiction exercised under the laws in force by any Supreme Court of Judicature or the Courts of Wards; or under Act XXI of 1855 (*for making better provision for the education of male minors and the marriage of male and female minors, subject to the superintendence of the Court of Wards in the Presidency of Fort Saint George*), and Act XL of 1858 (*for making better provision for the care of the persons and property of minors in the Presidency of Fort William in Bengal*). Saving of laws.

8. The term "Sadr Court" in this Act shall denote the highest Court of appeal in any part of the British territories in India. Interpretation-clause.

ACT No. XVI OF 1861.

Received the Governor General's assent on the 7th July 1861.

An Act for licensing and regulating Stage Carriages.[a]

WHEREAS it is expedient to license and to regulate stage-carriages in British India; It is enacted as follows:— Preamble.

1. Every carriage drawn by one or more horses[b] which shall ordinarily be used for the purpose of conveying passengers for hire to or from any place in British India, shall without regard to the form or construction of such carriage be deemed to be a stage-carriage within the meaning of this Act. Definition of stage-carriage.

Provided that this Act shall not apply to carriages not ordinarily used for journies of a greater distance than twenty miles.

2. No carriage shall be used as a stage-carriage unless licensed by a Magistrate[c] or by the Chief Commissioner of Police of a presidency town. Carriages to be licensed.

3. The Magistrate or Chief Commissioner of Police to whom the application for a license of a stage-carriage is made may refuse to license the same, if he shall be of opinion that such stage-carriage is unserviceable or is unsafe or unfit for public accommodation or use. Power to refuse license.

If a Magistrate or Chief Commissioner of Police as aforesaid shall grant a license, the license shall set forth the number thereof, the name and Particulars of license.

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[a] See 2 & 3 Wm. IV, c. 120; 3 & 4 Wm. IV, c. 48; 5 & 6 Vic, c. 79; 10 & 11 Vic., c 42; 11 & 12 Vic., c. 118, section 2. Act No. XVI of 1861 does not apply to the Madras Presidency, and the section (22) under which it might have been extended thereto, has been repealed. It applies to the Bombay Presidency; but the local Act (Bombay Act No. VI of 1863) is the enactment which regulates public conveyances in the town of Bombay. This Act is extendible to any other place in the Presidency, see section 34.

[b, c] See section 21 *infra*.

residence of the proprietor of the stage-carriage, the place at which his head-office is held, the largest number of passengers and the greatest weight of luggage to be carried in or on such carriage, the number of horses by which such carriage is to be drawn, and the name of the place at which such carriage is licensed.

Charge for and duration of license

4. For every such license there shall be paid by the proprietor of the stage-carriage the sum of five rupees, and such license shall be in force for one year from the date thereof.

When a licensed stage-carriage is transferred to a new proprietor within the year, the name of such new proprietor shall, on application to that effect, be substituted in the license for the name of the former proprietor without any further payment for that year, and every person who appears by the license to be the proprietor, shall be deemed to be such proprietor for all the purposes of this Act.

Particulars to be painted on conspicuous part of carriage.

5. On any stage-carriage being licensed, the proprietor thereof shall cause the number of the license and all the other particulars of the license to be distinctly painted in the English language and character upon a conspicuous part of such stage-carriage.

Penalty for letting carriage without having particulars painted.

6. The proprietor of any licensed stage-carriage who shall let such stage-carriage for hire without the particulars specified in section 3 being painted on such carriage in the manner directed in the last preceding section, shall be liable to a fine not exceeding one hundred rupees.

Penalty for letting for hire unlicensed carriage.

7. Whoever lets for hire any stage-carriage without the same being licensed as provided by this Act, shall be liable, on a first conviction, to a fine not exceeding one hundred rupees, and on any subsequent conviction to a fine which may extend to five hundred rupees.

Penalty for allowing carriage to be drawn by fewer animals or more passengers, &c., to be carried, than provided by license.

8. Any proprietor, or agent of a proprietor, or any driver of a licensed stage-carriage, who knowingly permits such carriage to be drawn by a less number of horses, or who knowingly permits a larger number of passengers, or a greater weight of luggage to be carried by such stage-carriage than shall be provided by the license, shall be liable on a first conviction to a fine not exceeding one hundred rupees, and on any subsequent conviction to a fine which may extend to five hundred rupees.

In every case where such stage-carriage shall be proved to have been drawn by a less number of horses, or to have carried a larger number of passengers or a greater weight of luggage than shall be provided by the license, the proprietor of such carriage shall be held to have knowingly permitted such offence, unless he shall prove that the offence was not committed with his connivance, and that he had taken every reasonable precaution and had made reasonable provision to prevent the commission of the offence.

9. Any person who shall cruelly beat, ill-treat, over-drive, abuse, torture, or cause or procure to be cruelly beaten, ill-treated, over-driven, abused or tortured, any horse employed in drawing or harnessed to any stage-carriage, or who shall harness to or drive in any stage-carriage any horse which from sickness, age, wounds or other cause is unfit to be driven in such stage-carriage, shall for every such offence be liable to a fine not exceeding one hundred rupees. Penalty for ill-treating animals.

10. Any Magistrate or Chief Commissioner of Police within the local limits of whose jurisdiction any stage-carriage shall ply, or who has granted the license of any stage-carriage, may cancel the license of such stage-carriage if it shall appear to him that such stage-carriage or any horse or any harness used with such carriage is unserviceable or unsafe or otherwise unfit for public accommodation or use. Revocation o license.

11. In any station or place in which a Magistrate shall reside and be, any Police-officer may, in any place within two miles of the office of such Magistrate, seize any stage-carriage with the horse harnessed thereto, if the full particulars of the license of such stage-carriage be not distinctly painted on such stage-carriage in the manner provided in section 5 of this Act. Penalty for not conforming to provisions of section 5.

Such carriage with the horse harnessed thereto shall be taken without delay by such Police-officer before such Magistrate, who shall forthwith proceed to hear and determine the complaint of such Police-officer; and if thereupon any fine is imposed by such Magistrate and such fine is paid, such stage-carriage and horse shall be immediately released; and if such fine be not paid, such stage-carriage and horse may be detained for twenty days as security for the payment thereof; and if the fine be not sooner paid, they may be sold and the proceeds applied (so far as they extend) to the payment of the said fine, and all costs and charges incurred on account of the detention and sale; and the surplus (if any), when claimed, shall be paid to the proprietor of such carriage and horse; and if such surplus be not claimed within a further period of two months from such sale, the same shall be forfeited to the State.

If the proceeds of such sale do not fully pay the fine and costs and charges aforesaid, the balance may be recovered as hereinafter provided.

12. If any driver of any stage-carriage, or any other person having the care thereof, shall through intoxication, neglect, or by wanton or furious driving, or by any other misconduct, endanger the safety of any passenger or other person, or shall injure or endanger the property of the proprietor of such stage-carriage or of any other person, every such person so offending shall be liable to a fine not exceeding one hundred rupees. Penalty for misconduct o part of drivers.

Penalty when recoverable from proprietor.

13. Whenever the driver of any stage-carriage or the owner of any horse employed in drawing any stage-carriage shall have committed any offence against this Act for the commission whereof any penalty is by this Act imposed, other than an offence specified in section 8, and such driver or owner shall not be known, or being known cannot be found, or if the penalty cannot be recovered from such driver or owner, the proprietor of such carriage shall be liable to every such penalty as if he had been the driver of such carriage or owner of such horse at the time when such offence was committed.

Proviso.

Provided that if any such proprietor shall make out, to the satisfaction of the Magistrate before whom any complaint or information shall be heard, by sufficient evidence, that the offence was committed by such driver or owner without the privity or knowledge of such proprietor, and that no profit, advantage or benefit, either directly or indirectly, has accrued or can accrue to such proprietor therefrom, and that he has used his endeavour to find out such driver or owner, and has done all that was in his power to recover the amount of the penalty from him, the Magistrate may discharge the proprietor from such penalty, and shall levy the same upon such driver or owner when found.

Issue of summons.

14. Whenever any charge is made before any Magistrate of any offence under this Act on which it is necessary to issue a summons to the proprietor of a stage-carriage, the Magistrate shall issue such summons directed to such proprietor or his nearest agent, and may transmit such summons by letter-post which shall be deemed to be good service thereof.

The letter shall be registered at the post-office, and the cost of the registration shall be borne by the Government in the first instance, but may be charged as costs in the case.

The summons shall allow a reasonable time, in reference to the distance to which the summons is sent, for the appearance of such proprietor or his agent as aforesaid.

Adjudication of penalties.

15. All penalties incurred under this Act shall be adjudged by a Magistrate or Chief Commissioner of Police as aforesaid, and all orders made under this Act by such Magistrate or Chief Commissioner of Police shall be final.

Recovery of penalties, &c.

16. All penalties imposed under this Act, or any balance of any fine, costs or charges as mentioned in section 11 of this Act, may in case of non-payment or non-recovery thereof be levied by distress and sale of the moveable property of the offender by warrant under the hand of the Magistrate who imposed the same.

17. In case any such penalties shall not be forthwith paid, such Magistrate may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of such Magistrate for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

Offender may be apprehended and detained in custody until return of warrant of distress.

18. If upon the return of such warrant it shall appear that no sufficient distress can be had whereon to levy such penalty, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Magistrate by the confession of the offender or otherwise, that he has not sufficient goods and chattels whereupon such penalty could be levied if warrant of distress were issued, such Magistrate may, by warrant under his hand, commit the offender, provided he is not a European British subject, to prison, there to be imprisoned, according to the discretion of such officer, for any term not exceeding two calendar months when the amount of penalty shall not exceed fifty rupees, and for any term not exceeding four calendar months when the amount shall not exceed one hundred rupees, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount.

Imprisonment of offender if distress not sufficient.

19. If the offender shall be a European British subject, the Magistrate shall record the facts and transmit such record to the District Court of the district wherein the offender is convicted, and the amount of penalty and the costs (if any) shall be levied in the manner provided for the execution of decrees of the civil Court.

Recovery of penalty and costs from European British subjects.

20. On complaint made before any Magistrate of any offence committed under this Act, it shall not be necessary to prove that the offence was committed within the local limits of such Magistrate or other officer.

Jurisdiction.

21. The term "Magistrate" in this Act shall include all Magistrates and other persons exercising the powers of a Magistrate:

Interpretation-clause. "Magistrate."

The term "British India" in this Act shall denote the territories that are or shall be vested in Her Majesty by the Statute 21 & 22 Vic., c. 106, entitled "An Act for the better Government of India:"

"British India."

The term "horse" shall include ponies and mules:

"Horse."

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number:

Number.

Words importing the masculine gender shall include the feminine.

Gender.

ACT No. XXIII OF 1861.[a]

Received the Governor General's assent on the 28th August 1861.

An Act to amend Act VIII of 1859 (*for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter.*)

Preamble.

WHEREAS it is expedient to amend Act VIII of 1859 *(for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter)* and to consolidate the Acts previously passed for the amendment of the said Act; It is enacted as follows:—

1. [*Repealed by Act No. XIV of* 1870.]

Who to pay cost of serving process.

Payment into Court before issue.

2. Every process required to be issued under Act VIII of 1859 shall be served at the expense of the party at whose instance it is issued, unless otherwise specially directed by the Court; and the sum required to defray the costs of such service shall be paid into the Court before the process is issued, within a period to be fixed by the Court issuing the process.

When plaint to be returned.

3. If it appear to the Court in any case relating to land or other immoveable property that such land or other property is not situate within the limits of the jurisdiction of the Court, or in any other case that the cause of action did not arise, and that the defendant is not dwelling or personally working for gain, within such limits, the Court shall return the plaint to the plaintiff in order to its being presented in the proper Court.

Suit against several defendants not all within jurisdiction.

4. If in any suit there are more defendants than one, and at the date of the institution of the suit all the defendants shall not reside within the jurisdiction of the Court in which the suit is brought, but one or more of the defendants shall reside within such jurisdiction, the suit shall not be rejected by reason of all the defendants not residing within the jurisdiction of the Court in which the suit is brought, but the District Court, if the suit is pending in any Court subordinate to such Court, or the Sadr Court, may order that the suit be heard in any Court subordinate to such Sadr or District Court, and competent in respect of the value of the suit to try the same.

Procedure when summons to defendant not served for failure of plaintiff to deposit cost.

5. If on the day fixed for the defendant to appear and answer to a suit, it shall be found that the summons to the defendant has not been served in consequence of the failure of the plaintiff to deposit, within the time allowed, the sum required to defray the cost of issuing the summons, the Court may order that the suit be dismissed.

Provided that no such order shall be passed, although the summons shall not have been served upon the defendant, if on the day fixed for the defend-

[a] Declared to apply to the whole of British India, except the Scheduled Districts, Act No. XV of 1874.

ant to appear and answer he shall have entered an appearance by a pleader or by a duly authorized agent when he is allowed to appear by agent, or shall be in attendance in person.

Appeal.

6. The provisions of the last preceding section shall apply to appeals also.

Fresh suit in case of dismissal under section 5.

7. Whenever a suit is dismissed under the provisions of section 5 of this Act, the plaintiff shall be at liberty to institute a fresh suit, unless precluded by the rules for the limitation of actions, or if the plaintiff shall satisfy the Court within the period of thirty days from the date of the order dismissing the suit, that there was a sufficient excuse for his not making the deposit required within the time allowed, the Court may order a fresh summons to issue upon the plaint already filed.

Procedure on application for discharge by person arrested in execution of decree for money.

8. When a person arrested under a warrant in execution of a decree for money shall, on being brought before the Court, apply for his discharge on either of the grounds mentioned in section 273 of Act VIII of 1859, the Court shall examine the applicant in the presence of the plaintiff or his pleader, as to his then circumstances and as to his future means of payment, and shall call upon the plaintiff to show cause why he does not proceed against any property of which the defendant is possessed and why the defendant should not be discharged; and should the plaintiff fail to show such cause, the Court may direct the discharge of the defendant from custody.

Pending any enquiry which the Court may consider it necessary to make into the allegations of either party, the Court may leave the defendant in the custody of the officer of the Court to whom the service of the warrant was entrusted, on the defendant depositing the fees of such officer, which shall be at the same daily rate as the lowest rate charged in the same Court for serving process; or if the defendant furnish good and sufficient security for his appearance at any time when called upon while such enquiry is being made, his surety or sureties undertaking in default of such appearance to pay the amount mentioned in the warrant, the Court may release the defendant on such security.

Court may of its own accord summon witnesses.

9. If the Court shall at any time think it necessary for the ends of justice to examine any person other than a party to the suit and not named as a witness by a party to the suit; the Court may, of its own accord, cause such person to be summoned as a witness to give evidence, or to produce any document in his possession on a day to be appointed, and may examine such person as a witness.

The costs of summoning such person, if not deposited by either party to the suit, shall be paid by the collector under an order of the Court, and shall be costs in the suit, and shall be paid out of any money recovered on

account of costs in the suit, whether at the instance of the Government or of either party, before any other costs in the suit are paid.

In suits for money, decree may order certain interest to be paid on principal sum adjudged.

10. When the suit is for a sum of money due to the plaintiff, the Court may, in the decree order interest at such rate as the Court may think proper to be paid on the principal sum adjudged from the date of suit to the date of the decree, in addition to any interest adjudged on such principal sum for any period prior to the date of suit; with further interest on the aggregate sum so adjudged, and on the costs of the suit from the date of the decree to the date of payment.

How questions regarding amount of mesne profits, interest, and sums paid in satisfaction of decrees, &c., to be determined.

11. All questions regarding the amount of any mesne profits which by the terms of the decree may have been reserved for adjustment in the execution of the decree, or of any mesne profits or interest which may be payable in respect of the subject-matter of a suit between the date of the institution of the suit and execution of the decree, as well as questions relating to sums alleged to have been paid in discharge or satisfaction of the decree or the like, and any other questions arising between the parties to the suit in which the decree was passed and relating to the execution of the decree, shall be determined by order of the Court executing the decree, and not by separate suit, and the order passed by the Court shall be open to appeal.

Provided that, if upon a perusal of the petition of appeal and of the order against which the appeal is made, the Court shall see no reason to alter the order, it may reject the appeal, and it shall not be necessary in such case to issue a notice to the respondent before the order of rejection is passed.

12. [*Repealed by Acts No. VII of* 1870 *and No. IX of* 1871.]

When Court may direct immediate execution against person or property of judgment-debtor.

13. When a decree is passed in any suit of the nature and amount cognizable by Courts of Small Causes constituted under Act XLII of 1860, the Court passing the decree, whether such Court be a Court constituted as aforesaid, or any other Court, may, at the same time that it passes the decree, on the verbal application of the party in whose favour the decree is given, direct immediate execution thereof by the issue of a warrant directed either against the person of the judgment-debtor if he is within the local limits of the jurisdiction of the Court passing the decree, or against the personal property of the judgment-debtor within the same limits.

If the warrant be directed against the personal property of the judgment-debtor, it may be general against any personal property of the judgment-debtor wherever it may be found within the local limits of the jurisdiction of the Court, or special against any personal property belonging to the judgment-debtor within the same limits, which shall be indicated by the judgment-creditor.

14. When the land sold in execution of a decree is a share of a pattídárí estate paying revenue to Government as defined in section 2 Act I of 1841[a] (*for facilitating the collection of the Revenue of Government and defining the interest intended to be conveyed by public sales for the realization of arrears of the Public Revenue in Pattídárí Estates*), if the lot shall have been knocked down to a stranger, any co-sharer other than the judgment-debtor, or any other member of the coparcenary, may claim to take the share sold at the sum at which the lot was knocked down.

Co-sharer of share of pattídárí estate sold in execution may claim share at sale-price.

Provided that the claim be made on the day of sale, and that the claimant fulfil all the conditions of the sale.

Proviso.

15. The Court, on receiving any application for execution of a decree containing the particulars mentioned in section 212 of Act VIII of 1859, or such of them as may be applicable to the case, shall enter a note of the application and the date on which it was made in the register of the suit.

Procedure on application for execution of decree.

If it shall be shown to the Court that the particulars do not correspond with the original decree, the Court shall either return the application for correction to the person making it, or shall, with the consent of such person, cause the necessary correction to be made.

If the application be admitted, the Court shall order execution of the decree according to the nature of the application.

16. When in any case pending before any Court any witness or other person shall appear to the Court to have been guilty of an offence described in section 193, 194, 195, 196, 199, 200, 205, 206, 207, 208, 209 or 210 of the Indian Penal Code, the Court may commit such person to take his trial for the offence before the Court of Session, or after making such preliminary enquiry as may be necessary, may send the case for investigation to any Magistrate having jurisdiction to try or commit for trial the accused person for the offence charged, and such Magistrate shall thereupon proceed according to law.

Procedure when certain offences under chapter XI of Penal Code are committed in case pending before Court.

17. The Court may send the person accused in custody or take sufficient bail for his appearance before the Magistrate and may bind over any person to appear and give evidence before the Magistrate.

Court may take bail and bind witnesses.

18. When the commitment is made by the Court, the Court shall frame a charge in the manner provided in chapter XIII of the Code of Criminal Procedure,[b] and shall transmit the same with the order of commitment and

How charge to be framed.

[a] Repealed by Act No. XVI of 1874. The definition referred to is as follows :—

"A Pattídárí estate in this Act is held to be an estate which consists of two or more separate portions or pattís, or of which there may be proprietors possessed of separate properties and holding direct of the Government, but not parties in their own names to the contract with the Government for payment of the public revenue. The proprietor who is a party in his own name is called a Lambardár, and the proprietor who is not a party in his own name is called a Pattídár."

[b] This corresponds with chapter XXXIII of Act No. X of 1872

the record of the case to the Magistrate, and such Magistrate shall bring the case together with the witnesses for the prosecution and defence before the Court of Session.

Procedure in case of certain offences relating to documents.

19. When in any case pending before any Court there shall appear to the Court sufficient ground for sending for investigation to the Magistrate a charge described in section 463, 471, 475 or 476 of the Indian Penal Code, which may be preferred in respect to any deed or paper offered in evidence in the case, the Court may send the person accused in custody to the Magistrate or take sufficient bail for his appearance before the Magistrate.

The Court shall send to the Magistrate the evidence and documents relevant to the charge, and shall bind over any person to appear and give evidence before such Magistrate.

The Magistrate shall receive such charge and proceed with it under the rules for the time being in force.

Procedure in case person accused under section 16 or 19 is a European British subject.

20. If the person accused or any one of the persons accused in any case falling under section 16 or section 19 of this Act is a European British subject, the Court shall send such person in custody or take sufficient bail for his appearance before an officer empowered to commit or hold to bail persons charged with offences for trial before a Supreme Court of Judicature, and such officer shall proceed according to law.

Procedure in certain cases of contempt.

21. When any such offence as is described in section 175, 178, 179, 180 or 228 of the Indian Penal Code is committed in the view or presence of any Court,[a] it shall be competent to such Court to cause the offender, whether he be a European British subject or not, to be detained in custody; and at any time before the rising of the Court on the same day to take cognizance of the offence; and to adjudge the offender to punishment by fine not exceeding two hundred rupees, or by imprisonment in the civil jail for a period not exceeding one month unless such fine be sooner paid. In every such case the Court shall record the facts constituting the contempt, with any statement the offender may make, as well as the finding and sentence. If the Court, in any case, shall consider that a person accused of any offence above referred to should be imprisoned, or that a fine exceeding two hundred rupees should be imposed upon him, such Court, after recording the facts constituting the contempt, and the statement of the accused person as before provided, shall forward the case to a Magistrate, or, if the accused person be a European British subject, to a Justice of the Peace, and shall cause bail to be taken for the appearance of such accused person before

[a] See Act No. X of 1872, sections 435—438.

such Magistrate or Justice of the Peace, or if sufficient bail be not tendered shall cause the accused person to be forwarded under custody to such Magistrate or Justice of the Peace. If the case be forwarded to a Magistrate, such Magistrate shall proceed to try the accused person in the manner provided for trials before a Magistrate, and it shall be competent to such Magistrate to adjudge such offender to punishment, as provided in the section of the Indian Penal Code under which he is charged. If the case be forwarded to a Justice of the Peace, such Justice of the Peace shall enquire into the circumstances, and shall have the same powers of punishing the offender as are vested by the Statute 53 George III, c. 155, s. 105[a], in a Justice of the Peace for the punishment of an assault, and may deal with the offender in the same manner as is provided in that behalf in the said Statute. If such Justice of the Peace shall consider the offence to require a more severe punishment than a Justice of the Peace is competent to award under the said Statute, he may commit the offender to a Supreme Court of Judicature.

Discharge of offender on submission.

22. When any person has been sentenced to punishment under the last preceding section, for refusing or omitting to do anything which he was lawfully required to do, it shall be competent to the Court to discharge the offender, or to remit the punishment, on the submission of the offender to the order or requisition of such Court.[b]

Appeal to lie from all decrees, except when expressly prohibited. Appeal to Sadr Court to be heard by two or more Judges.

23. Except when otherwise expressly provided in this or any other Regulation or Act for the time being in force, an appeal shall lie from the decrees of the Courts of original jurisdiction to the Courts authorized to hear appeals from the decisions of those Courts. If the appeal lie to the Sadr Court, it shall be heard and determined by a Court consisting of two or more Judges of that Court. If, when the Court consist of only two Judges, there is a difference of opinion upon the evidence in cases in which it is competent to the Court to go into the evidence, and one Judge concur in opinion with the lower Court as to the facts, the case shall be determined accordingly: if in a Court so constituted there is a difference of opinion upon a point of law, the Judges shall state the point upon which they differ, and the case shall be re-argued upon that question before one or more of the other Judges and shall be determined according to the opinion of the majority of the Judges of the Sadr Court by whom the appeal is heard.[c]

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[a] Repealed by Act No. X of 1872, and by 36 & 37 Vic., c. 91.

[b] See Act No. X of 1872, section 437.

[c] Repealed, so far as it relates to British Burma, by Act No. VII of 1872, section 5.

Procedure in case of application by sureties to be discharged.

24. The sureties for the appearance of any person under section 76 of the said Act VIII of 1859 may at any time apply to the Court in which they became such sureties to be discharged from their engagements. On such application being made, the Court shall summon such person to attend, or if it shall think fit may issue a warrant in the first instance for his appearance. On the appearance of such person pursuant to the summons or warrant or on his voluntary surrender, the Court shall direct the recognizances of the sureties to be discharged, and shall call upon such person to find other sureties and thereupon proceedings shall be had under sections 77 and 78 of the said Act.

Application for admission of special appeal informally drawn up, how dealt with.

25.[a] If the application for the admission of a special appeal be not written on a stamp-paper of the prescribed value, or if it be not drawn up in the manner laid down in section 374 of Act VIII of 1859, or if it do not state any ground on which a special appeal will lie under the provisions of section 372 of the said Act, the Court may reject the application, or may return it to the party for the purpose of being corrected. The order for rejecting the application or for returning it to the party may be passed by a single Judge of the Court. When the application is correctly drawn up, it shall be registered in a book to be kept for that purpose, which shall be in the form contained in the schedule D of the said Act, and the case shall proceed in all other respects as a regular appeal, and shall be subject to all the rules hereinbefore provided for such appeals, so far as the same may be applicable.

No appeal from order or decision under section 15, Act XIV of 1859.

26. No appeal shall lie from any order or decision passed in any suit instituted under section 15, Act XIV of 1859 *(to provide for the limitation of suits)*, nor shall any review of any such order or decision be allowed.

No special appeal from decision of Court subordinate to Sadr Court in certain suits.

27.[b] No special appeal shall lie from any decision or order which shall be passed on regular appeal after the passing of this Act by any Court subordinate to the Sadr Court, in any suit of the nature cognizable in Courts of Small Causes under Act XLII of 1860 (*for the establishment of Courts of Small Causes beyond the local limits of the jurisdiction of the Supreme Courts of Judicature established by Royal Charter*)[c], when the debt, damage or demand for which the original suit shall be instituted shall not exceed five hundred rupees; but every such order or decision shall be final.

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[a] Repealed, so far as it relates to British Burma, by Act No VII of 1872, section 5.

[b] Sections 27 to 34, both inclusive, were repealed, so far as they relate to British Burma, by Act No. VII of 1872, section 5.

[c] The reference to Act No. XLII of 1860 is to be read as applying to Act No. XI of 1865 (Act No. XI of 1865, section 50.)

28. If in any suit in which an order or decision is made final under the last preceding section, any question of law, or usage having the force of law, or the construction of a document affecting the merits of the case shall arise, on which the Court trying such suit shall entertain reasonable doubts, the Court may either of its own motion or on the application of either of the parties to the suit, draw up a statement of the case and submit such statement with its own opinion for the decision of the Sadr Court.

Reference of question to Sadr Court.

29. The Court may proceed in the case notwithstanding a reference to the Sadr Court, and may pass a decree contingent upon the opinion of the Sadr Court on the point referred; but no execution shall be issued in any case in which a reference shall be made to the Sadr Court until the receipt of the order of that Court.

Court may proceed and pass contingent decree, staying execution.

30. Cases referred for the opinion of the Sadr Court shall be dealt with by two or more Judges of that Court.

Disposal of cases referred.

31. The Sadr Court shall fix an early day for the hearing of the case, and shall notify the same by a proclamation to be fixed up in the Court-house of that Court.

Proclamation of day of hearing.

32. The parties to the case may appear and be heard in the Sadr Court in person or by pleader.

Appearance of parties.

33. The Sadr Court, when it has heard and considered the case, shall transmit a copy of its judgment under the seal of the Court and the signature of the register, to the Court by which the reference was made, and such Court shall, on the receipt thereof, proceed to dispose of the case conformably to the decision of the Sadr Court.

Transmission of decision of Sadr Court.

34. Costs, if any, consequent on the reference of a case for the opinion of the Sadr Court, shall be costs in the suit.

Costs of reference to Sadr Court.

35. The Sadr Court may call for the record of any case decided on appeal by any subordinate Court in which no further appeal shall lie to the Sadr Court, if such subordinate Court shall appear in hearing the appeal to have exercised a jurisdiction not vested in it by law, and the Sadr Court may set aside the decision passed on appeal in such case by the subordinate Court, or may pass such other order in the case as to such Sadr Court may seem right.

Sadr Court may call for record of lower appellate Court, and set aside its decision, though no appeal lie to Sadr Court.

36. When an order is made for the execution of a decree against which an appeal has been preferred, it shall be lawful for the Court which pronounced the decree to require security to be given for the restitution of any property which may be taken in execution of the decree or of the value thereof, and for the due performance of the decree or order of the appellate Court. The appellate Court may in any such case direct the Court which pronounced the decree to take such security.

Security when execution required of decree appealed against.

Powers of appellate Court.

37. Unless when otherwise provided, the appellate Court shall have the same powers in cases of appeal which are vested in the Courts of original jurisdiction in respect of original suits.

Procedure in future miscellaneous proceedings.

38. The procedure prescribed by Act VIII of 1859 shall be followed as far as it can be in all miscellaneous cases and proceedings which after the passing of the Act shall be instituted in any Court.

Extension of Act to Non-Regulation Provinces.

39. When under the provisions of section 385 of the said Act, the Act is extended to any part of the territories not subject to the General Regulations of Bengal, Madras and Bombay, it shall be lawful for the Government to which the territory is subordinate to declare that the Act shall take effect therein subject to any restriction, limitation, or proviso which it may think proper. In such case the restriction, limitation, or proviso shall be inserted in the declaration or notification of such extension.

When the Act is extended by the Local Government to any territory subordinate to such Government, and such extension is made subject to any restriction, limitation, or proviso, the previous sanction of the Governor General of India in Council shall be requisite.

Sadr Court to make general rules for regulating proceedings, &c.

40. The Sadr Court shall have power to make and issue general rules for regulating the practice and proceedings of that Court and the Courts subordinate to it, and also to frame forms for every proceeding in the said Courts for which it shall think necessary that a form be provided; for keeping all books, entries, and accounts to be kept by the officers, and for the preparation and submission of any statements to be prepared and submitted by such Courts, and from time to time to alter any such rule or form; provided that such rules and forms be not inconsistent with the provisions of this Act or of any other law in force.

Any rules framed under this section shall be published in the official Gazette.

Interpretation of "Pleader."

41. The word "Pleader" as used in this Act shall include the words "Counsel" and "Advocate."

Short title.

42. Act VIII of 1859 shall be called the Code of Civil Procedure.

43. [*Repealed by Act No. XIV of* 1870.]

Construction.

44. This Act shall be read and taken as part of Act VIII of 1859.

ACT No. III of 1862.

Received the Governor General's assent on the 28th February 1862.

An Act to amend the law relating to the use of a Government Seal.

WHEREAS it is expedient to adapt the law relating to the use of a Government Seal to the present form of the Government in India; It is enacted as follows:— Preamble.

Whenever it is required by any regulation of a Local Government, or by any Act of the Governor General of India in Council, that the seal of the East India Company shall be affixed on behalf or by the authority of the Government to any instrument or document, it shall be lawful, if the seal is to be affixed on behalf or by the authority of a Local Government, to affix in lieu of the seal of the East India Company a seal bearing the designation of such Local Government, or, if the seal is to be affixed on behalf or by the authority of the Government of India, a seal bearing the inscription "Government of India"; and such instrument or document so sealed shall to all intents and purposes be as valid and effectual as if the seal so used had been that of the East India Company.[a] Seal to be used instead of seal of East India Company.

ACT No V. of 1862.

Received the Governor General's assent on the 28th February 1862.

An Act to provide for the payment at the Banks of Bengal, Madras and Bombay, respectively, of moneys payable at the General Treasuries of Calcutta, Madras and Bombay.

WHEREAS, under the provisions of Act XXIV of 1861[b] (*to enable the Banks of Bengal, Madras and Bombay to enter into arrangements with the Government for managing the issue, payment, and exchange of Government Currency Notes and certain business hitherto transacted by the Government Treasuries*), the Bank of Bengal has entered into an agreement with the Secretary of State for India in Council through the Governor General of India in Council that so much of the business hitherto generally transacted at Preamble.

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[a] "Legislation on this subject was originally suggested in order to meet a difficulty respecting the seal to be used under Act XIX of 1838 (*for the registration of coasting vessels in the Bombay Presidency*). Section 8 of that Act requires that certificates of registry "shall be sealed with the seal of the East India Company", and the Government of Bombay were advised by their law officers that no other seal could properly be used for such certificates until some Act should be passed "prescribing the seal to be used in lieu of the seal of the East India Company"—*Statement of Objects and Reasons.*

[b] Repealed by Act No. III of 1871.

the General Treasury of the Government at the presidency of Fort William, as consists in receiving and paying money on behalf of the Supreme Government and the Government of Bengal, shall be carried on and transacted by the said Bank, subject to the provisions of the said agreement, and to such orders and directions with regard to receipts and payments as may from time to time be given to the said Bank by the Governor General in Council, or any of the officers of the Government of India authorized in that behalf.

And whereas the Governor General in Council has given notice in the *Calcutta Gazette* that the treasury of the Secretary of State for India in Council and of Her Majesty's Indian Government at Calcutta shall, from and after the first day of March 1862, be established at the Bank of Bengal.

And whereas the Bank of Madras and the Bank of Bombay are in treaty with the Governor in Council of Madras and the Governor in Council of Bombay, respectively, for the purpose of entering into similar agreements, and it is probable that such agreements will be shortly executed, and that similar notice to that hereinbefore mentioned will be given by the Governors in Council of Madras and Bombay in regard to the Banks of Madras and Bombay.

And whereas divers promissory notes and negotiable securities and other obligations for the payment of money made by or on behalf of the Secretary of State for India in Council or by the Governor General of India in Council, the Governor of Madras in Council, and the Governor of Bombay in Council, respectively, on behalf of the East India Company and of the Secretary of State for India in Council, are made payable at the General Treasury of Fort William in Bengal, the General Treasury at Madras, and the General Treasury at Bombay, respectively.

And whereas divers other securities and other obligations are made payable to the Secretary of State for India in Council or to the said Governor General in Council, or to the Governors in Council of Madras or of Bombay at the said General Treasuries of Fort William in Bengal, Fort St. George, and Bombay, respectively;

It is therefore enacted as follows:—

Sums payable by or to Government to be payable at Bank of Bengal instead of at General Treasury at Calcutta.

1. On and after the first day of March 1862, and until the expiration of fourteen days after notice shall be given in the *Calcutta Gazette* by the Governor General of India in Council that the treasury of the Government will be no longer held at the Bank of Bengal, all sums payable by or to the Secretary of State for India in Council, or by or to the Governor General of India in Council or the Government of Bengal on behalf of the Secretary of State

for India in Council, at the General Treasury of Fort William in Bengal, shall be payable by or to the Secretary of State in Council, or by or to the Governor General of India in Council or the Government of Bengal respectively on behalf of the Secretary of State in Council, at the Bank of Bengal instead of at the General Treasury at Calcutta.

Presentment of promissory notes, &c., at Bank of Bengal.

2. Whenever presentment of any promissory note, security or obligation for payment, or for any other purpose, at the General Treasury of Fort William in Bengal would, before the said first day of March 1862, have been necessary or sufficient, presentment for such purpose at the Bank of Bengal shall be necessary or sufficient, as the case may be, on and after the said first day of March 1862, and until the expiration of fourteen days after such notice as in the first section mentioned shall have been given.

Payment at Banks of Madras and Bombay of sums payable by or to Government at General Treasuries at Madras and Bombay.

3. If the Governors in Council of Madras and of Bombay, respectively, shall give notice in the Government Gazettes of their presidencies respectively, that the Banks of Madras and Bombay respectively have entered into agreements or arrangements with the Secretary of State for India in Council through the said Governors in Council, for the purposes mentioned in the preamble of this Act, under the provisions of the said Act XXIV of 1861, and that from and after a date to be specified in such notice, the treasury of the Secretary of State for India in Council, and of Her Majesty's Indian Government at Madras and Bombay respectively, shall be established at the Banks of Madras and Bombay respectively, all sums payable by or to the Secretary of State for India in Council, or by or to the Governor of Madras in Council or the Governor of Bombay in Council on behalf of the Secretary of State for India in Council, at the General Treasury at Madras, or at the General Treasury at Bombay respectively, shall from and after the date specified in such notice, and until the expiration of fourteen days after notice shall have been given by the said Governors in Council respectively that the treasury of the Government will be no longer held at those Banks respectively, be payable by or to the Secretary of State in Council, or by or to the Governor of Madras in Council, or by or to the Governor of Bombay in Council, on behalf of the Secretary of State in Council, at the Bank of Madras or the Bank of Bombay respectively, instead of at the General Treasury at Madras or the General Treasury at Bombay.

Presentment of promissory notes, &c., at Banks of Madras and Bombay.

4. In such case, whenever presentment of any promissory note, security, or obligation for payment or for any other purpose, at the General Treasuries at Madras or Bombay respectively, would have been necessary or sufficient, if such notice had not been given and this Act had not been passed, presentment for such purpose at the Banks of Madras and Bombay respectively shall be

necessary or sufficient, as the case may be, on and after the date specified in such notice by the Governors in Council of Madras and Bombay respectively, and until the expiration of fourteen days after such notice as aforesaid that the said treasury will be no longer held at those Banks respectively shall have been given.

Proviso as to presentment at several Banks.

5. Nothing in this Act shall render necessary the presentment at the Banks of Bengal, Madras and Bombay, respectively, of any security or other obligation which it would not have been necessary to present at the General Treasuries of Bengal, Madras and Bombay, respectively, if this Act had not been passed.

ACT No. XVIII of 1862.

Received the Governor-General's assent on the 1st May 1862.

An Act to repeal Act XVI of 1852 in those parts of British India, in which the Indian Penal Code is in force, and to re-enact some of the provisions thereof with amendments, and further to improve the administration of Criminal Justice in Her Majesty's Supreme Courts of Judicature.

Preamble.

Whereas, in consequence of the passing of the Indian Penal Code, many of the provisions of Act XVI of 1852[a] *(for further improving the administration of Criminal Justice in Her Majesty's Courts of Justice in the territories of the East India Company)* have become inapplicable and others require amendment, and it is expedient to repeal the said Act, and, pending the preparation of a Code of Criminal Procedure for Her Majesty's Supreme Courts of Judicature, to re-enact some of the provisions of the said Act, and to make further provision for the administration of criminal justice in such Courts; It is enacted as follows:—

1 to 25. [*Repealed by Act No. X of* 1875.]

Absence of general exceptions under Penal Code to be assumed

26. It shall not be necessary to allege in an indictment any circumstances for the purpose of showing that the case does not come, nor shall it be necessary to allege that the case does not come, within any of the general exceptions contained in chapter IV of the Indian Penal Code, or within the exceptions contained in section 136, section 300, section 323, section 324, section 325, section 326, section 375 or section 499 of the said Code, but every charge shall be understood to assume the absence of all such circumstances,

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[a] This Act (which had been partially repealed by Act No. XVIII of 1862, section 56,) was wholly repealed by Act No. X of 1875.

and it shall not be necessary on the part of the prosecutor to prove at the trial the absence of such circumstances in the first instance; but the person indicted shall be entitled to give evidence of the existence of any such circumstances, and evidence in disproof thereof may then be given on the part of the prosecutor.

Evidence as to general exception.

27. In proving the existence of circumstances as a defence under the 2nd, 3rd, 5th, 6th, 7th, 8th, 9th or 10th exception to section 499 of the Indian Penal Code, good faith shall be presumed unless the contrary appear.

Good faith to be presumed in certain cases.

28. In every indictment, words used in describing an offence shall be deemed to have been used in the sense attached to them by the Indian Penal Code.

Words in indictments taken in sense of Penal Code.

29. Any person accused of murder, or of culpable homiedie not amounting to murder, may be dealt with, tried and punished by any of Her Majesty's Supreme Courts of Judicature, if the act which shall have caused the death shall have been committed wholly or partly within the local limits of the jurisdiction of such Court, or if the death shall have taken place within such local limits, in the same manner as if both the act had been committed and the death had taken place within such local limits.

Trials for murder or culpable homicide when act which caused it, or the death, took place within jurisdiction.

30. Any person accused of an offence may be dealt with, tried and punished by any of Her Majesty's Supreme Courts of Judicature, if the offence shall have been either commenced or completed within the local limits of the jurisdiction of such Court, in the same manner as if the offence had been wholly and entirely committed within such local limits.

Supreme Court may deal with offence either commenced or completed within local jurisdiction.

31. Whenever the offence of which any person shall be accused shall consist of anything which has been done and of any consequence which has ensued therefrom, the person accused may be dealt with, tried and punished by any of Her Majesty's Supreme Courts of Judicature, if either the act shall have been done, or the consequence shall have ensued, within the local limits of the jurisdiction of such Court, in the same manner as if both the act had been done and the consequence had ensued within such local limits.

Offence may be dealt with if either act was done, or consequence ensued, within jurisdiction.

32. Whenever a person shall be accused of any offence punishable under section 411, 412, 413 or 414 of the Indian Penal Code, in respect to the receiving or retaining of stolen property, such person may be dealt with, tried and punished by any of Her Majesty's Supreme Courts of Judicature, if the offence by which the possession of the property shall have been transferred, shall have been committed either wholly or in part within the local limits of the jurisdiction of such Court, or if any of the stolen property shall have been received or retained by the person accused within such local limits.

Receiving stolen property, when part only of offence committed within jurisdiction.

Similar provision as to dishonest removal or concealment of property.

33. If any person shall be accused of any offence under section 424 of the Indian Penal Code, of dishonestly or fraudulently concealing or removing any property of himself or of any other person, or of dishonestly or fraudulently assisting in the concealment or removal thereof, such person may be dealt with, tried and punished by any of Her Majesty's Supreme Courts of Judicature, if the property shall have been concealed or removed in any place within the local limits of such Court, or shall have been removed from any place within such local limits.

Provision for cases on or near boundaries of local jurisdiction.

34. If any act shall have been committed, or the consequence of any act shall have ensued, on the boundaries of the local jurisdiction of such Court, or so near to such boundaries as to render it doubtful whether such act was committed or such consequence ensued within such local limits or not, such act or consequence may for all purposes be stated, deemed and taken to have been committed or to have ensued within such local limits.

Provision for case of offences committed on journey or voyage.

35. If any person shall be accused of any offence alleged to have been committed on a journey or on any voyage in British India, such person may be dealt with, tried and punished by any of Her Majesty's Supreme Courts of Judicature, if any part of the journey or voyage shall have been performed within the local limits of the jurisdiction of such Court.

36 to 46. [*Repealed by Act No. X of* 1875.]

47 to 52. [*Repealed by Act No. XII of* 1867].

Provision for persons now in House of Correction.

53. From and after the passing of this Act, all persons who are confined at the date of the passing of this Act in the House of Correction, whether under the sentence of any of Her Majesty's Supreme Courts of Judicature, or of any Justice of the Peace or Police Magistrate, shall be considered to be, and shall remain, in the custody of the officer in whom the control of such House of Correction is vested, whether such officer be the Sheriff or not, or of the keeper of such House of Correction, and such officer and keeper shall be responsible for the safe custody of all such persons.

54, 55, 56. [*Repealed by Act No. X of* 1875].

Definitions.

"Indictment."

57. In the construction of this Act, unless where a contrary intention appears from the context, the word "Indictment" shall be understood to include information, inquisition, or presentment, as well as indictment, and also any plea, replication, or other pleading; and

"Finding of the indictment."

the term "finding of the indictment" shall be understood to include the taking of an inquisition, the exhibiting of an information, and the making of a presentment; and

Number and gender.

words importing the singular number or masculine gender shall include several persons and parties as well as one person or party, and females as well

as males, and bodies corporate as well as individuals, and several matters and things as well as one matter and thing:

Words which refer to acts done shall include illegal omissions: Acts done.

The words "British India" shall denote the territories that are or shall become vested in Her Majesty by the Statute 21 & 22 Vic., c. 106, entitled "An Act for the better Government of India," except the Settlement of Prince of Wales' Island, Singapore and Malacca; and "British India."

the word "property" shall be understood to include goods, chattels, money, valuable securities and every other matter or thing, whether real or personal, upon or with respect to which any offence may be committed. "Property."

ACT No. XX OF 1862.

Received the Governor General's assent on the 19th July 1862.

An Act to provide for the levy of Fees and Stamp Duties in the High Court of Judicature at Fort William in Bengal; and to suspend the operation of certain Sections of Act VIII of 1859 in the said High Court.

WHEREAS it is expedient to suspend the operation in the said High Court of certain sections of Act VIII of 1859 *(the Code of Civil Procedure)* relating to the manner in which the judgments and orders of the Courts of Civil Judicature are to be recorded; It is enacted as follows:— Preamble.

1. [*Repealed by Act No. XV of* 1868].

2. [*Repealed by Act No. VII of* 1870].

3, 4. [*Repealed by Act No. XV of* 1868].

5. The operation of the following sections of the said Act VIII of 1859, namely, sections 184, 185, 186 and 359, relating to the manner in which the judgments of the Courts of Civil Judicature are to be recorded, and so much of the said Act as extends the provisions of the foregoing sections to the orders of the Courts of Civil Judicature not being judgments or decrees, is hereby suspended in the said High Court; and the said High Court and every Division Court and Judge thereof shall record their judgments and the orders passed by them respectively in such manner as the said High Court shall by any general rule or rules from time to time direct. Parts of Act VIII of 1859 suspended. High Court to record judgments and orders as it shall by rule direct.

6. The High Court may by its own rules fix the time within which appeals from judgments, orders, or decrees made by any Division Court or by any Judge or Judges of the said High Court in the exercise of its original jurisdiction shall be preferred. Court may fix time for preferring certain appeals.

and for applications for reviews.

The High Court may also, by its own rules, fix the time within which applications for the review of any judgment passed by any Division Court or by any Judge or Judges of the said High Court in the exercise of its original civil jurisdiction, shall be preferred.

[*Repealed by Act No. XIV of* 1870].

Execution in certain cases before amount of costs ascertained, and execution for costs subsequently when ascertained.

8. Whenever it shall appear necessary to a Judge of the said High Court that a decree made in the exercise of the ordinary original civil jurisdiction of the said Court ought to be enforced before the amount of the costs incurred in the suit can be ascertained by taxation, the Judge may order that the decree shall be executed forthwith, except as to so much thereof as relates to the costs, and, as to so much thereof as relates to the costs, that the same may be executed as soon as the amount thereof shall be ascertained by taxation.

Power to authorize attorney to do acts required by law to be done by pleader.

Proviso.

9. Whenever anything is directed by the said Act VIII of 1859 to be done by or through a pleader, the said High Court or any Judge thereof in the exercise of the ordinary original civil jurisdiction of the said Court may authorize such act to be done by or through an attorney-at-law of the Court. Provided that no attorney shall be authorized under the provisions of this section to plead in the said Court or in any Division Court for any person.

Application of Act to Madras and Bombay High Courts.

10. This Act shall apply, *mutatis mutandis*, to the High Courts of Judicature which may be established at Madras and Bombay under Act 24 & 25 Victoria, Chapter 104, for those presidencies respectively, whenever such Courts shall be established. Provided that the powers vested by this Act in the Governor General in Council shall be exercised in the presidencies of Madras and Bombay by the Governors in Council of those presidencies respectively.

ACT No. XXIV OF 1862.

Received the Governor General's assent on the 24th December 1862.

An Act to continue in force Act XX of 1862 (*to provide for the levy of Fees and Stamp Duties in the High Court of Judicature at Fort William in Bengal; and to suspend the operation of certain Sections of Act VIII of* 1859[a] *in the said High Court*).

1. [*Preamble and section* 1 *repealed by Act No. VIII of* 1868.]

High Court may fix time for applications for reviews of judgment.

2. The following words shall be read as if they had been added to section 6 of the said Act XX of 1862:—The High Court may also, by its own rules, fix the time within which applications for the review of any judgment passed by any Division Court or by any Judge or Judges of the said High Court in the exercise of its original civil jurisdiction, shall be preferred.

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[a] See Act No. XXIV of 1862.

CONSOLIDATED CUSTOMS ACT.

Arrangement of Sections.

Section.

1. Title.
2. *Repealed.*
3. Interpretation-clause.

General Rules.

4. Making, issuing, and publishing rules.
5. Also rules respecting passengers' baggage and mails.
6. Appeals how and by whom adjudicated.

Appointment of Officers, Ports, Wharves, Warehouses, &c.

7. Local Government to appoint necessary officers.
8. Delegation of powers of Local Government.
   Suspension, &c., of subordinate officers.
9. Collector of revenue to perform duties where no separate customs-officer.
10. Power to appoint and alter ports and wharves for shipment and landing.
    Existing ports and wharves to continue in use until otherwise ordered.
11. Governor General may declare free ports.
12. Governor General may declare that Indian port not in British India shall be regarded as a British Indian port for certain purposes.
13. Penalty for landing or shipping goods at unauthorized port, &c.
14. Local Government may declare warehousing ports and places.
    Existing ports to continue in use until otherwise declared.
15. Approval, appointment and licensing of warehouses.
    Existing warehouses to continue in use until otherwise ordered.

Levy of, and Exemption from, Customs Duties.

16. Import-customs.
17. Export-customs.
18. No duties on goods carried between ports not free.
    Saving of opium, &c.
19. Power to authorize exemption from payment of duty.
20. Baggage in actual use.

SECTION.

GENERAL PROVISIONS.

21. Prohibitions and restrictions.
22. Importation, without license, of arms and ammunition, prohibited.
Proviso.
23. Power to prohibit or restrict importation or exportation.
24. Goods imported or exported contrary to prohibition liable to confiscation, and persons concerned to penalty.
25. Importation, exportation and warehousing.
26. Owner, &c., to declare real value of goods in bill of entry or shipping, and if necessary, to produce invoice, &c.
27. Under-valued goods how dealt with.
Notice to person entering goods.
Procedure when goods retained for Government.
Reward to detector of under-valuation.
Power to allow amendment of valuation.
Duties on goods retained for Government.
28. Goods brought to be passed through custom-house liable to confiscation in case of discrepancy, mis-description, &c.
29. Date of importation how determined.
30. Date of exportation how determined.
31. Re-imported articles of country-produce deemed foreign.
Proviso.
32. Stations may be appointed for customs-officers to board, and also land from, ship.
Penalty for infraction.

IMPORTATION.

33. Power to fix places beyond which inward-bound vessels not to proceed until manifest delivered.
34. On failure, master liable to penalty.
35. Penalty for failure to report when vessel anchors below reporting-station, or to deliver manifest of cargo.
36. Penalty for not delivering report or manifest within 24 hours after anchoring.
37. Penalty for pilot, &c., not receiving report or manifest.
38. Penalty for vessel removing from place of mooring, or unlading, without due authority.
39. Stations may be appointed for officers of customs to board vessels arriving from foreign ports.

SECTION.

40. Penalty for not bringing to at boarding-station.
41. Officer in charge of custom-house may depute officers of customs to board ships.
Proviso.
42. Penalty for refusing to receive officer of customs on board.
43. Servant to be received with officer.
Accommodation of officer and servant.
Penalty.
44. Officers of customs to have free access to every part of ship, and may seal and secure goods.
Officer in charge of custom-house may authorize search and opening of locks.
Goods concealed liable to confiscation.
45. Penalty for masters resisting search, &c.
46. Bulk not to be broken until manifest, &c., delivered, and ship entered at custom-house.
Power to require delivery of other papers,
and to grant special pass, for unshipping treasure.
47. Master, if required, to deliver bill of lading, &c., to officer in charge of custom-house.
Penalty for false entry, fraudulent alteration, &c.
48. Goods not entered in manifest, &c., liable to confiscation, or extra duty.
49. Penalty for not accounting for missing or deficient package, &c.
50. Amendment of obvious errors, &c.
51. Period allowed for landing import-cargo.
Consequence of exceeding same.
52. Procedure in respect of goods not landed within time allowed.
53. And in case of goods landed in time, with exception of only small quantity.
54. Effect of not discharging cargo in earlier period specified in bill of lading.
55. Goods may be landed at any time after arrival, with consent.
Holding unclaimed goods pending payment of charges.
56. Procedure in case of non-payment of duties within four months after entry of vessel.
Perishable goods.
Goods for home-consumption.
57. Goods not cleared within two months from date of landing may be sold.
Disposal of proceeds.

SECTION.

Disposal of arms and ammunition.
58. Goods not to be landed on Sundays, holidays, &c., without permission; nor except within fixed hours, &c.
Penalty.
59. Goods removed from ship to be forthwith landed.
Otherwise liable to confiscation.
60. Goods landed at other than appointed place liable to confiscation.
Transshipment of discharged goods.
61. Goods landed without boat-note liable to confiscation, and person in fault to penalty.
62. Entry for home-consumption.
63. Penalty for goods being delivered without entry.
Proviso as to passengers' baggage.
Confiscation of concealed goods.
64. Penalty for goods being removed after landing and before due entry.
65. Claims to abatement of duty on account of damage how treated.
66. Disposal of damaged goods and levy of duty thereon.
67. Goods derelict and wreck treated as foreign goods.
68. Power to require goods to be weighed or measured before landing.
69. No duty on portion of import-cargo intended for other port, ship's stores, &c.
Entry thereof in export-manifest.
Power to secure them during stay in port.

WAREHOUSING.

70. Warehousing without payment of duty.
71. Public warehouses.
Responsibility of keeper.
72. Power to settle as to deposit in public warehouse.
Exhibition of rent-rates.
73. Licensing private warehouses at warehousing ports.
Revocation of license.
74. Form of application for license for private warehouses.
75. Form of application for admission of goods into warehouse.
76. Goods to be assessed for customs-duty before warehousing.
Responsibility for weight or gauge.
Re-assessment on clearance for home-consumption.
77. Bond of importer, &c., for duty assessed.
78. Terms of bond to be executed.

SECTION.

79. Period for which goods may remain warehoused.
80. Penalty for improper carrying into warehouse.
81. Procedure in respect of goods to be warehoused.
When not properly warehoused and liable to confiscation.
82. Penalty for mis-description of goods.
Rectifying over-statement of quantity or value.
83. Packages, &c., to be marked and numbered before admission into warehouse.
Proviso as to confiscation.
84. Penalty for neglecting to stow goods properly in warehouse.
85. Or for neglecting to produce goods when required.
86. Goods entered to be warehoused, if not duly warehoused, or if concealed or removed, liable to be confiscated.
87. Officer in charge of custom-house may cause warehoused packages to be examined.
Re-opening of goods sealed after examination.
88. Penalty for licensee of private warehouse refusing access to customs-officers.
89. When bond due, for duty on goods in private warehouse deprived of license.
90. Access of owners, &c., to warehoused goods.
Cost of special officer deputed to accompany owner, &c.
91. Penalty for owner, &c., clandestinely gaining access to warehoused goods.
92. Sorting, repacking, &c., of warehoused goods.
Filling casks of liquor.
Mixing wines.
Taking samples.
Destroying refuse.
Remission of duty.
93. Compensation for loss or injury admissible only in case of proved wilful neglect, &c.
94. Chief Customs Authority may remit duties on warehoused goods lost or destroyed.
Notice of loss in private warehouse.
Re-assessment of duty on goods damaged.
95. Import-duty on quantity or value registered at time of importation.
Proviso as to wines, spirits, beer or salt.

SECTION.

96. Penalty for deficiencies in private warehouse if beyond ullage and wastage allowed.
Saving of wines, spirits, beer and salt.
Extra allowance for ullage and wastage.
97. Penalty for excess in private warehouse, over registered quantity.
Penalty to be paid before removal.
98. Goods not to be removed from warehouse, except after application to officer in charge of custom-house.
99. Form of application for removal of goods.
Twenty-four hours' notice to be given.
100. Penalty if goods taken out of warehouse illegally.
Remission of duty and payment for damage when customs-officer is offender.
101. Expenses of carriage, packing, &c., borne by owner.
102. Payment of rent and warehouse-dues.
In case of failure, goods may be sold, &c.
Disposal of proceeds.
103. On goods being removed otherwise than for export, &c., full duty to be paid.
104. On failure to pay duty, officer in charge of custom-house may proceed upon bond, or detain goods, and sell after ten days, if demand not paid.
Disposal of proceeds.
Transfer not to bar proceeding against goods.
105. Removal of goods from one warehouse to another.
Application for removal.
106. Bonded goods may be removed from one port to another.
Application for removal.
107. Transmission of account from port of removal to port of destination.
Owner to execute bond for due arrival, &c.
108. Power to allow remover to enter into general bond.
109. Goods on arrival at port of destination subject to same laws as goods on first importation.
110. Transshipment of goods brought into one Indian port, but intended for another.
111. On arrival at destination of such goods, they may, after formalities for re-warehousing, be entered for exportation or home-use on payment of duties.

SECTION.

112. Removal of goods to be noted on bond.
Particulars to be noted.
113. Register of bonds to be kept.
When bonds to be cancelled and returned to obligee.
114. Duty to be settled within three years.
115. Provisions applied to Bengal Bonded Warehouse Association.

EXPORTATION.

116. Permission for entry outwards to be obtained before export-cargo put on board.
Contents of application.
Penalty.
117. Period allowed for shipment of export-cargo.
Consequence of exceeding same.
Allowance when vessel laid up.
Penalty for lading in absence of customs-officer.
118. Goods not to be shipped except on proper days and places, nor until entry and clearance.
Penalty for contravention.
119. Customs-officer may examine goods shipped.
120. Power to send officers of customs on board vessel clearing.
And to allow shipment without presence of officer.
121. Penalty for refusal to receive on board deputed customs-officer.
122. One servant to be received on board with each officer.
Accommodation of officer, &c.
Penalty.
123. Exporter to deliver shipping-bill before shipping goods.
124. On entry outwards, bond-note to be given for shipping and landing.
125 Boat-note.
Signature and delivery.
Delivery to master.
Penalty for non-delivery of boat-note.
126. No vessel to depart without port-clearance.
Application for same.
Penalties.
Proof of departure without port-clearance.

SECTION.

127. No pilot to take charge of out-going vessel without port-clearance.
Penalty.
128. Master on applying for port-clearance, to deliver manifest and certificates.
Issue of port-clearance.
129. Port-clearance may be refused unless all documents delivered and charges paid.
130. Certain goods, if entered in manifest and not shipped, liable to confiscation.
Penalty for shipment of goods not in manifest, &c.
And for landing at other than declared place.
131. Additional charge on goods passed for shipment after port-clearance granted.
Exception of treasure and opium.
132. Duty on goods not shipped or relanded returnable on application.
Proviso.
133. Stations for out-going vessels to bring to, to land customs-officers.
134. Penalty for not bringing to at prescribed station.
Levy of penalty.
Proof of failure to bring to.
135 Goods relanded from vessel returning to port or putting into other port, how dealt with.
136. Vessel returning to port may enter and land goods under import-rules.
Refund of duty and recovery of drawback.
Penalty for deficiency.

DRAWBACK.

137. Amount of drawback allowable on re-export.
Conditions for grant of drawback.
Ship's stores.
Foreign articles liable to export-duty.
Power to remit reserved duty.
138. Time to claim and demand payment of drawback.
Drawback when payable.
139. No drawback on goods of value less than sum claimed.
140. Nor on goods not in manifest.
141. No drawback allowed except on goods exported out of India.
Proviso.

SECTION.
142. Declaration by parties claiming drawback.
143. Drawback-goods, if not exported, or if relanded, liable to confiscation, and parties concerned to penalty.
144. Drawback on wine allowed for officers of Navy.
145. Statement by persons claiming drawback.
Shipment of wine, and payment of drawback.
146. Transfer of wine from one officer or ship to another, &c.
Power to pass for home-consumption.
147. Wine not laden, or unladen without leave, liable to confiscation.
148. Provisions and stores for Her Majesty's Navy exempt from duty.

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149. No duties on goods carried in coasting-vessel.
Proviso.
150. No drawback for goods shipped in coasting-vessel.
151. Local Government may regulate carriage of goods coastwise.
Penalty for contravention of rules.
152. Times and places for shipping goods.
Penalty for contravention.
153. Cargo-book to be kept by master.
Entries at lading-ports.
Entries at discharge-ports.
Times of arrival and departure.
Production of book.
Goods liable to confiscation.
Penalty for breach of rules.
154. Coasting-vessels to deliver account and obtain port-clearance before leaving port of lading.
Penalty if account false.
155. Officer in charge of custom-house may require bond before granting port-clearance.
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156. Grant of general pass.
Revocation.
157. Time for delivery of pass.
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158. Unlading excisable goods on coasting-vessel.
159. Penalty for breach in respect of lading, carrying coastwise, and unlading.

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160. Customs-officer may board and search coasting-vessel, demand production of document
and conveyance to him for inspection.
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CARGO BOATS.

161. Local Government may prohibit plying of unlicensed cargo-boats.
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162. Licensing and registration of cargo-boats.
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163. Rules for removal of spirits from distillery without payment of duty for exportation.
Bond by remover.
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164. Removal of spirits to custom-house.
165. Gauge and proof.
Drawback on duty-paid spirits.
166. Duty recoverable on deficiency in spirits under bond.
167. Drawback of excise-duty on spirits manufactured after English method.
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168. No drawback on spirits exported to Indian ports not free, but such spirits may be exported under bond.
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169. Duty on spirits exported from one Indian port to another.
170. Rum-shrub, &c., how charged with duty.
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171. Spirits intended for exportation may be removed for local consumption.
172. Conditions of drawback and remission of duty on spirits.
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173. Penalty for irregularly relanding spirituous liquors.

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174. Agents to be authorized.
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175. Agent to produce authority if required.
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176. Importer, &c., to deliver duplicate of bill of entry, or shipping bill, if required.
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178. Officer in charge of custom-house may take samples of goods.
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181. Expense of piling, &c., timber chargeable by measurement, by whom borne.
No allowance for interstices.
182. Transshipment of stores from one vessel to another of same owner.
183. Export of provisions, stores, &c., for consumption on vessels proceeding to foreign ports.
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184. In case of dispute duty to be deposited pending orders of Chief Customs Authority.
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185. Payment of duties short-levied or erroneously refunded.
Detention of goods until payment.
186. No refund of charges erroneously levied or paid, unless application made within six months.
187. Importer or exporter to pay expense incidental to compliance with custom-house rules.
188. No compensation for loss or injury except on proof of wilful neglect.
189. Rates of wharfage-fees to be fixed by Chief Customs Authority.
190. Saving of anchorage and harbour-dues, also special dues on drugs and salt.
191. Grant of duplicates.
Amendment of documents.
192. Customs-officers exempted from service on jury or inquest.

OFFENCES AND PENALTIES.

193. Penalty for commanders of tug-steamers or pilot-vessels receiving or discharging goods without authority.
194. Penalty for shipping, landing, concealing, &c., contrary to Act.

SECTION.

195. Vessels in port with cargo and afterwards found in ballast, and cargo unaccounted for, liable to confiscation.
196. What included in confiscation of vessels and goods.
197. Port-clearance may be refused, and goods detained, pending payment of fines incurred.
198. Persons reasonably suspected may be detained.
199. Vessels, goods and persons may be seized or detained.
200. Vessels and goods seized how dealt with.
201. Persons detained how dealt with.
202. Persons taken before Magistrate, for offence under Customs Acts, may be detained.
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203. Person not detained when offending, or afterwards escaping.
204. Procedure in case of persons in Her Majesty's Navy, when detained.
205. When seizure made, or person detained, officer to give reason in writing.
206. Procedure in respect of goods seized on suspicion.
Penalty for neglect of Police-officer.
207. Officers of customs may search carts, &c., for goods on reasonable suspicion.
208. Magistrate of District may issue search-warrant on application.
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209. Power to search persons on reasonable suspicion.
Penalty for possession of smuggled goods.
210. Procedure when person before search requires to be taken before Magistrate, &c.
Search of female.
211. Penalty for searching person on insufficient grounds.
212. Customs-officers, if guilty of breach of duty, how punishable.
213. Customs-officers committing or conniving at frauds, how punisha
214. No suit or proceeding to be commenced without notice, or after stated interval.
215. Punishment for obstructing customs-officers.
216. Penalty for making false declaration, refusing to produce documents or failing to answer questions truly.
217. Penalty for unauthorized declaration to value of goods.
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SECTION.

219. Local Government may confer like powers on other officers of customs.
Limit to powers.
220. Appeal from award of subordinate to superior officers.
Bar to enhancement by order in appeal.
221. Penalty under Act not to interfere with punishment under other law.
222. Summary adjudication by Magistrate.
223. Remission or commutation of penalty by Chief Customs Authority.
224. How payment of penalty enforced.
225. Periods of imprisonment, in default of payment of penalty or fine, to be fixed within certain limits.
Power to levy by distress and sale.
226. Imprisonment to terminate upon payment of fine.
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228. On confiscation of vessel or goods, property to vest in Her Majesty.
Holding possession.
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A. Form of application for license for private warehouse.
B. Form of application to warehouse goods.
C. Form of bond for import-duty.
D. Form of application to remove goods from warehouse.
E. Form of application to remove goods from one warehouse to another.
F. Form of shipping-bill.
G. Form of coasting-pass.
H. Form of bond for removal of spirits from licensed distillery.

ACT No. VI OF 1863.

Received the Governor General's assent on the 29th January 1863.

An Act to consolidate and amend the laws relating to the administration of the Department of Sea Customs in India.[a]

WHEREAS it is expedient that the laws relating to the administration of the Department of Sea Customs in India should be consolidated and amended; It is enacted as follows:— Preamble.

1. This Act shall be called the Consolidated Customs Act. Title.

[a] Declared to apply to the whole of British India, except the Scheduled Districts, Act No. XV of 1874.

2. [*Repealed by Act No. XIV of* 1870.]

Interpretation-clause.

3. The following words and expressions in this Act have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction :—

"British India."

1. The words "British India" denote the territories that are or shall become vested in Her Majesty by the Statute 21 & 22 Vic., c. 106 (entitled "An Act for the better government of India"), except the Settlement of Prince of Wales' Island, Singapore, and Malacca.

"Local Government."

2. The words "Local Government" denote the persons authorized to administer executive Government in any part of British India; or the chief executive officer of any part of British India under the immediate administration of the Governor General of India in Council, when such chief executive officer shall, by an order of the Governor General in Council published in the official Gazette, be authorized to exercise the powers vested by this Act in a Local Government.

"Chief Customs Authority of the Presidency or place."

3. The words "Chief Customs Authority of the Presidency or place" denote the persons authorized to exercise, under any Local Government, the chief control in the Department of Customs in any presidency or place.

"Chief Officer of Customs of the Port."

4. The words "Chief Officer of Customs of the Port" denote the executive officer of highest rank in the Department of Customs in any port.

"Officer in charge of the Custom-house."

5. The words "Officer in charge of the Custom-house" include every officer of customs who is for the time being authorized to have separate charge of a custom-house.

"Magistrate."

6. The word "Magistrate" includes every officer exercising the powers of a Magistrate.[a]

"Free Port."

7. The words "Free Port" denote any port at which no duties of customs are leviable.

"Foreign Port."

8. The words "Foreign Port" include any port situated beyond British India, and any free port.

"Foreign Goods."

9. The words "Foreign Goods" include all goods not produced or manufactured in British India.

Vessel."

10. The word "Vessel" includes any thing made for the conveyance by water of human beings or property.

"Coasting Vessel."

11. The words "Coasting Vessel" denote any vessel plying between one port in British India not being a free port and another port in British India not being a free port, without touching at any intermediate foreign port.

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[a] See 2 Boulu. 52.

12. The words "Master or Commander" include every person, except a pilot, having command or charge of any vessel. "Master or Commander."

13. The word "Warehouse" denotes any place approved, appointed or licensed for the keeping and securing of goods entered to be warehoused without payment of duty on the first entry thereof. "Warehouse."

14. Words importing the singular number include the plural number, and words importing the plural number include the singular number. Number.

15. Words importing the masculine gender include females. Gender.

General Rules.

4. It shall be competent to the Chief Customs Authority of any presidency or place, with the sanction of the Local Government, to make and issue rules[a] for regulating the practice and proceedings of officers in the Department of Sea Customs; and from time to time to add to, alter or revoke such rules or any of them; provided that no rule so made shall be inconsistent with any provision of this Act, or of any other law for the time being in force. Making, issuing, and publishing rules.

Any rules made under this section shall be published in the official Gazette.

5. Any rules made under the last preceding section may include such rules as appear expedient for the landing and shipping of passengers' baggage and the passing of the same through the custom-house; and for the landing, shipping and clearing of parcels forwarded by Her Majesty's or other mails, or by other regular packets and passenger-vessels. Also rules respecting passengers' baggage and mails.

When any baggage or parcels are made over to an officer of customs for the purpose of being landed, a fee of such amount as the Local Government shall from time to time direct, shall be chargeable thereon, as compensation for the expense and trouble incurred in landing and depositing the same in the custom-house.

6. If any dispute shall arise between any officer of customs and any master or commander of a vessel, or importer, exporter, owner or consignee of goods, or agent, or other person, in respect to any matter (not specially provided for by any law for the time being in force) relating to the importation, exportation or warehousing of any goods, or to the levy of any duty or penalty thereon, or to any seizure or forfeiture thereof, the Chief Customs Authority of the presidency or place in which such dispute shall have arisen shall settle the same, subject to an appeal to the Local Government acting under the general instructions of the Governor General of India in Council. Appeals how and by whom adjudicated.

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[a] See *Calcutta Gazette*, 1863, p. 3048: *ibid.*, 2nd July 1873, p. 808.

APPOINTMENT OF OFFICERS, PORTS, WHARVES, WAREHOUSES, &c.

Local Government to appoint necessary officers.

7. The Local Government of every presidency or place in which duties of sea-customs are levied, shall appoint such persons as it may deem proper to exercise the powers conferred, and to perform the duties imposed, by this Act.

Every person so appointed shall be liable to be suspended or dismissed by the Local Government which appointed him.

Delegation of powers of Local Government.

8. The Local Government may delegate to any authority within its jurisdiction in the Department of Customs the whole or any portion of the powers vested in it by the last preceding section.

Suspension, &c., of subordinate officers.

Every subordinate officer who is appointed by virtue of such delegated power, shall be liable to be suspended or dismissed by the authority which appointed him.

Collector of revenue to perform duties where no separate customs-officer.

9. At any port or place at which there is no officer in charge of a custom-house, the collector of revenue of the district and the officers subordinate to such collector shall be deemed to be the proper officers for the performance of all duties required by this Act to be performed by an officer in charge of a custom-house and other officers of customs.

Power to appoint and alter ports and wharves for shipment and landing.

10. The Local Government of any presidency or place may from time to time declare, by notice in the official Gazette, the places within such presidency or place which alone shall be ports for the shipment and landing of goods; and may declare the limits of such ports; and may appoint proper places therein to be wharves for the landing and shipping of goods; and may declare the bounds and extent of any such wharf; and may from time to time alter the limit of any port or wharf; and may alter the name thereof.

Existing ports and wharves to continue in use until otherwise ordered.

Every port and wharf which shall have been declared and appointed, or which shall be existing as such, at the date on which this Act shall come into operation, shall continue to be such port or wharf, until the Local Government shall otherwise declare by notice in the official Gazette.

Governor General may declare free ports.

11. The Governor General of India in Council may from time to time declare, by notice in the official Gazette, that any port in British India shall be a free port at which no duties of customs shall be levied on the importation or exportation of goods by sea.

Governor General may declare that Indian port not in British India shall be regarded as a

12. The Governor General of India in Council may from time to time declare, by notice in the official Gazette, that any port on the Continent of India, though such port be situated beyond British India, shall be regarded as a British Indian port for the purposes of section 18, of section 141, and of sections 149 to 150 of this Act, in so far as the said sections or any of them

are capable of being applied with respect to such port[a]; and may in like manner from time to time by notice in the official Gazette revoke or suspend the operation of any such declaration.

British Indian port for certain purposes.

So long as any such declaration shall be in force in respect to any port, goods exported thereto from any port in British India, or imported therefrom at any port in British India, shall, as regards warehousing, drawback, and all other matters for which provision is made in any part of this Act, be treated in all respects like similar goods exported from one port in British India to another such port, or imported at one port in British India from another such port.

Penalty for landing or shipping goods at unauthorized port, &c.

13. If any goods be landed or shipped, or if an attempt be made to land or ship any goods, or if any goods be brought into any bay, river, creek or arm of the sea for the purpose of being landed or shipped, at any port or place, which, at the date of such landing, shipment, attempt or bringing, shall not have been declared to be or shall not be existing as a port for the landing and shipment of goods, such goods shall be liable to confiscation, together with any ship, boat, carriage or other means of conveyance engaged in such landing or shipment, or attempt to land or ship, or bringing for the purpose of landing or shipment.

Local Government may declare warehousing ports and places.

Existing ports to continue in use until otherwise declared.

14. The Local Government of any presidency or place may from time to time declare, by notice in the official Gazette, that any port or place within such presidency or place shall be a warehousing port or place for the purposes of this Act; and every port which, at the date on which this Act shall come into operation, shall have been declared to be or shall be existing as a warehousing port, shall continue to be a warehousing port under this Act, until the Local Government shall otherwise declare by notice in the official Gazette.

Approval, appointment and licensing of warehouses.

Existing warehouses to continue in use until otherwise ordered.

15. In any warehousing port or place the Chief Customs Authority of the presidency or place may from time to time approve, appoint or license warehouses or places of security wherein goods may be deposited without payment of duty on the first entry thereof; and every warehouse which, at the date on which this Act shall come into operation, shall have been approved, appointed or licensed as such, shall continue to be a warehouse under this Act, until otherwise ordered by such Chief Customs Authority.

Levy of, and Exemption from, Customs Duties.

Import-customs.

16. Duties of customs shall be levied on goods imported by sea into any port in British India, not being a free port, from any foreign port or place,

[a] The ports of the Native States of Cochin and Travancore have been declared to be British Indian ports for the purposes here mentioned—*Gazette of India*, 1st July 1865, p. 780. A like declaration has been made as to the ports of the Gaikwár, the Thákur of Bhaunagar and the Nawáb of Cambay, *ibid.*, 30th June 1866, p. 908.

at such rates and with such exemptions as may be prescribed by any law for the time being in force.

Export-customs.

17. Duties of customs shall be levied on goods exported by sea from any port in British India, not being a free port, to any foreign port or place, at such rates and with such exemptions as may be prescribed by any law for the time being in force.

No duties on goods carried between ports not free.

18. No duties of customs shall be levied on goods carried by sea from any port in British India not being a free port, to any other port in British India not being a free port.

Saving of opium, &c.

Provided that nothing in this section shall apply to opium or salt, or to spirits manufactured after the English method.

Power to authorize exemption from payment of duty.

19. It shall be lawful for the Local Government to authorize the Chief Customs Authority of any presidency or place to exempt, by special order, from the payment of duty, under stated circumstances of an exceptional nature, any goods on which duties of customs are directed to be levied by any law for the time being in force.

Baggage in actual use.

20. It shall be lawful for the officer in charge of a custom-house to pass free of duty at his discretion any baggage in actual use; and for this purpose to determine, subject to such general rules as may from time to time be made under section 4 of this Act, whether any goods shall be treated as baggage in actual use, or as goods subject to duty.

General Provisions.

Prohibitions and restrictions.

21. The importation into or exportation from British India of the goods enumerated in the following clauses is prohibited :—

(1). Any book printed in infringement of any law in force in British India on the subject of copy-right, when the proprietor of such copy-right, or his agent, shall have given to the Chief Customs Authority of the presidency or place a notice in writing that such copy-right subsists, and a statement of the date on which it will expire :

(2). False or counterfeit coin; or coin which purports to be Queen's coin of India, but is not of the established standard in weight or fineness :

(3). Any obscene book, pamphlet, paper, drawing, painting, representation, figure or article :

Importation, without license, of arms and ammunition, prohibited.

22. The importation into British India of arms or ammunition, except under a license from the Governor General of India in Council or from some officer authorized in that behalf by the Governor General of India in Council, is prohibited.

Nothing in this section shall apply to fowling pieces and sporting powder, *bonâ fide* imported by any person in reasonable quantities for his own private use. Proviso.

23[a]. It shall be lawful for the Governor General of India in Council from time to time, by notice in the official Gazette, to prohibit or restrict the importation or exportation of any particular class of goods.[b] Power to prohibit or restrict importation or exportation.

24. If any goods, the importation or exportation of which is prohibited or restricted, or shall hereafter be prohibited or restricted,[c] be imported into or exported from British India contrary to such prohibition or restriction; or if any attempt be made so to import or export any such goods; or if any such goods be found in any package produced to any officer of customs as containing no such goods; or if any such goods or any goods subject to a duty or restriction, in respect of importation or exportation, be found either before or after landing or shipment to have been concealed in any manner on board of any vessel within the limits of any port in British India; or if any goods, the exportation of which is or shall be prohibited. or restricted, be brought to any wharf in order to be put on board of any vessel for exportation contrary to such prohibition or restriction,—such goods, together with any goods which shall be found packed with or used in concealing them, shall be liable to confiscation; and any person concerned in any such offence shall be liable to a penalty not exceeding three times the value of the goods, or not exceeding one thousand rupees. Goods imported or exported contrary to prohibition liable to confiscation, and persons concerned to penalty.

25. It shall be lawful to import into, or to export from, British India any goods, the importation or exportation of which is not prohibited or restricted by any law or notice of the Governor General of India in Council for the time being in force; and any dutiable goods, the importation and warehousing of which is not prohibited or restricted by any such law or notice, may under the rules for the warehousing of goods in force at the port of importation, be warehoused without payment of duty on the first entry thereof. Importation, exportation and warehousing.

26. On the importation into, or exportation from, any port in British India of any goods not liable to duty, or liable to fixed duties according to weight or quantity only, or to duties on fixed tariff-valuations, the owner, Owner, &c., to declare real value of goods in bill of entry or shipping.

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[a] This section "shall be deemed to authorize and to have always authorized the Governor General in Council to prohibit or restrict the importation or exportation, by sea or by land, or both by sea and by land, of any particular class of goods"—Act No. XIV of 1871, section 1.

[b] The importation of rifles not intended for sporting-purposes has been prohibited under this section, see *Gazette of India*, 12th May 1865, pp. 702-3. The export from the Madras Presidency of opium not covered by a pass by land to any foreign or Native State, or by sea, has also been prohibited, *ibid.*, 11 June 1870, p. 400.

[c] See 7 Madras, 341.

consignee, importer, exporter or agent of such goods shall, in his bill of entry or shipping-bill, truly declare their real value to the best of his knowledge and belief.

and if necessary, to produce invoice, &c.

In case of doubt, it shall be lawful for the officer in charge of the custom-house to require any such person or any other person who shall be in possession of any invoice, broker's note, policy of insurance or other document, whereby the value of any such goods can be ascertained, to produce the same, and to furnish any information relating to the value of such goods which it shall be in his power to furnish.

And it shall thereupon be the duty of such person to produce any such document or to furnish any such information so required by such officer.

Under-valued goods how dealt with.

27. If, upon the examination of any goods entered for duty and chargeable with duty upon the value thereof, but for which a specific value is not fixed by or under the Indian Tariff Act, 1875,[a] it shall appear to an officer of customs that such goods are properly chargeable with a higher rate or amount of duty than that to which they would be subject, according to the value thereof as stated in the bill of entry or shipping-bill, it shall be lawful for such officer to detain such goods.

Notice to person entering goods

In every such case the detaining officer shall forthwith give notice in writing, to the person entering the goods, of their detention and of the value thereof as estimated by him; and the officer in charge of the custom-house shall, within two clear working days after such detention, or within such reasonable period as may with the consent of the parties be arranged, determine either to deliver such goods on the entry of such person, or to retain the same for the use of Government.

Procedure when goods retained for Government

If the goods be retained for the use of Government, the officer in charge of the custom-house shall cause the full value at which such goods were entered to be paid to the person entering the same, in full satisfaction for such goods, in the same manner as if such goods had been transferred by ordinary sale, and shall then cause the goods to be sold by public auction after due notice in the official Gazette.

Reward to detector of under-valuation.

If the proceeds arising from such sale shall exceed the sum paid to the person entering the goods, together with the duty to which the goods are liable and all charges incurred by Government in connection with them, a portion not exceeding one-half of the overplus shall, at the discretion of the chief officer of customs of the port, be payable to the officer who detected the under-valuation of the goods.

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[a] See Act No. XVI of 1875, section 12.

Nothing in this section shall prevent the chief officer of customs of the port, when he shall have reason to believe that any such under-valuation was solely the result of accident, from permitting the person entering the goods, on his application for that purpose, to amend such entry, as regards valuation, on payment of such increased rate of duties, or on such other terms as he may determine.

Power to allow amendment of valuation.

When goods are retained under this section on account of Government, the duties payable thereon shall in no case be levied from the person entering such goods.

Duties on goods retained for Government.

28. If it be found, when any goods are entered at or brought to be passed through a custom-house either for importation or exportation, that the packages in which they are contained differ widely from the description given in the entry or application for passing them; or that the contents thereof have been wrongfully described in such entry or application as regards the denominations, characters or circumstances according to which such goods are chargeable with duty, or are being imported or exported; or that the contents of such packages have been wilfully mis-stated in regard to sort, quality or quantity; or that goods not stated in the entry or application have been fraudulently concealed in or mixed with the articles specified therein, or have been packed to deceive the officers of customs, such packages, together with the whole of the goods contained therein, shall be liable to confiscation.

Goods brought to be passed through custom-house liable to confiscation in case of discrepancy, mis-description, &c.

29. If upon the first levying, repealing, enhancement or reduction of any duty, or upon any change of any fixed valuation for duty, or upon the first permitting, prohibiting or restricting of any importation, it shall become necessary to determine the exact date on which an importation of goods had effect, such date shall be deemed to be that on which the goods were actually entered for home-consumption at the custom-house.

Date of importation how determined.

30. If, in like manner, it shall become necessary to determine the exact date on which an exportation of goods had effect, such date shall be deemed to be that on which the goods were actually entered outwards at the custom-house.

Date of exportation how determined.

31. If goods produced or manufactured in British India be imported into any port in British India from any foreign port or place, such goods shall be treated as foreign goods, and shall be liable to all the duties, conditions and restrictions to which foreign goods of the like kind and value are liable on the first importation thereof.

Re-imported articles of country-produce deemed foreign.

Provided that, if such importation shall take place within three years after the exportation of such goods, and it shall be proved to the satisfaction of the officer in charge of the custom-house that the property in such goods

Proviso.

has continued in the person by whom or on whose account they were exported, the goods may be entered as Indian goods, in such manner as the Chief Customs Authority of the presidency or place shall, from time to time, direct.

Goods for which any drawback of excise shall have been received on exportation, shall in all cases be treated as foreign goods, unless the Chief Customs Authority of the presidency or place shall in any case otherwise direct by special order.

Stations may be appointed for customs-officers to board, and also land from, ship.

32. The Chief Customs Authority of any presidency or place may, from time to time, appoint in any port in British India, stations or places at which vessels arriving at, or departing from, such port, shall bring to for the boarding or landing of officers of customs, and may direct at what particular place in any such port, small vessels, not brought into port by pilots, shall be required to anchor or moor.

The chief officer of customs of any such port may, at any time, station officers of customs on board of any vessel, while such vessel remains within the limits of the port.

Penalty for infraction.

Any person infringing any rule or order made under this section by the Chief Customs Authority of any presidency or place, or by the chief officer of customs of any port, shall be liable to a penalty not exceeding five hundred rupees.

IMPORTATION.

Power to fix places beyond which inward-bound vessels not to proceed until manifest delivered.

33. It shall be lawful for the Local Government of any presidency or place, by notice in the official Gazette, to fix a place in any river or port, beyond which place it shall not be lawful for any vessel, whether laden or in ballast, arriving from any foreign port or place, to pass, until the master or commander thereof shall have delivered to the pilot, officer of customs or other person duly authorized to receive the same, a report or manifest containing a true specification of all goods imported in such vessel, with such particulars (as to the name, nation, tonnage, cargo and ports of lading of such vessel) and made out in such form as shall, from time to time, be directed by the Chief Customs Authority of the presidency or place in which such river or port is situated.

On failure, master liable to penalty.

34. If, in any river or port wherein a place has been so fixed by the Local Government, the master or commander of any vessel arriving from a foreign port or place shall wilfully omit, before passing beyond such place, to deliver a report or manifest in the form and containing the particulars indicated in the last preceding section, in so far as they are applicable to his ship, cargo and voyage; or if any report or manifest so delivered shall not contain

a true specification of all goods imported in such vessel, such master or commander shall, in every such case, be liable to a penalty not exceeding one thousand rupees.

Penalty for failure to report when vessel anchors below reporting-station, or to deliver manifest of cargo.

35. If, in any river or port wherein a place has been fixed by the Local Government under section 33 of this Act, the master or commander of any vessel arriving from any foreign port or place shall remain outside or below the place so fixed, such master or commander shall nevertheless, so soon as the vessel shall anchor, deliver to the pilot, officer of customs or other person authorized to receive the same, a report or manifest as provided in the said section.

If any master or commander so remaining outside or below any such fixed place shall wilfully omit, for the space of twenty-four hours after anchoring, to deliver his report or manifest, such master or commander shall, in every such case, be liable to a penalty not exceeding one thousand rupees.

Penalty for not delivering report or manifest within 24 hours after anchoring.

36. If, after any vessel arriving from any foreign port or place shall have entered any port in British India at which a custom-house is established, and in which a place shall not have been fixed under section 33 of this Act, the master or commander of such vessel shall wilfully omit, for the space of twenty-four hours after anchoring, to deliver as required by that section his report or manifest to the pilot, officer of customs or other person authorized to receive the same, such master or commander shall, in every such case, be liable to a penalty not exceeding one thousand rupees.

Penalty for pilot, &c., not receiving report or manifest.

37. If any pilot, officer of customs or other person authorized to receive a report or manifest from any master or commander of a vessel, shall refuse so to do, he shall, in every such case, be liable to a penalty not exceeding five hundred rupees.

Penalty for vessel removing from place of mooring, or unlading, without due authority.

38. If any vessel arriving from any foreign port or place at any port in British India, shall, after having come to its proper place of mooring or unlading, remove from such place, except with the authority of the master-attendant or harbour-master, obtained in accordance with the provisions of Act XII of 1875[a] (*to consolidate and amend the law relating to Ports and Port-dues*), directly to some other place of mooring or unlading, the master or commander of such vessel shall, in every such case, be liable to a penalty not exceeding one thousand rupees, and the vessel shall not be allowed to enter until the penalty is paid.

Stations may be appointed for officers of customs to board vessels

39. It shall be lawful for the Chief Customs Authority of any presidency or place to appoint stations at which any vessel arriving at any port in such presidency or place from any foreign port or place, may be required to bring

[a] See Act No. XII of 1875, sec. 3.

arriving from foreign ports.

to for the boarding of such vessel by an officer of customs deputed by the officer in charge of the custom-house at such port.

Penalty for not bringing to at boarding-station.

40. If the master or commander of any vessel arriving at any port in British India from any foreign port or place shall, when so required under the last preceding section, fail to bring to at any such station as shall have been appointed by the Chief Customs Authority of the presidency or place for the boarding of vessels by an officer of customs, such master or commander shall, in every such case, be liable to a penalty not exceeding one thousand rupees.

Officer in charge of custom-house may depute officers of customs to board ships.

41. It shall be competent to the officer in charge of the custom-house at any port in British India at any time to depute at his discretion one or more officers of customs to board any vessel arriving at such port. Every officer of customs so sent shall remain on board of such vessel by day and by night until it be otherwise ordered by the officer in charge of the custom-house.

Proviso.

Provided that it shall be competent to the officer in charge of the custom-house to direct, whenever he may see fit so to do, and on such conditions as he may see fit to impose, that the discharge of cargo may take place without the presence of an officer of customs.

Penalty for refusing to receive officer of customs on board.

42. Every master or commander of a vessel who shall refuse to receive on board an officer of customs deputed as above provided, shall be liable to a penalty not exceeding five hundred rupees for each day during which such officer shall not be received on board; and the vessel shall not be allowed to enter until the penalty is paid.

Servant to be received with officer.

Accommodation of officer and servant.

43. Every master or commander of a vessel, who is bound to receive on board an officer of customs, shall also be bound to receive on board one servant of such officer, and to provide such officer and servant with suitable shelter and accommodation, and likewise with a due allowance of fresh water, and with the means of cooking on board.

Penalty.

If any master or commander shall wilfully disobey the directions contained in this section, he shall in every such case be liable to a penalty not exceeding five hundred rupees.

Officers of customs to have free access to every part of ship and may seal and secure goods.

44. Every officer of customs, deputed as above provided on board of any vessel, shall have free access to every part thereof, and shall have power to fasten down any hatchway or entrance to the hold, and to mark any goods before landing, and to lock up, seal, mark or otherwise secure any goods on board of such vessel.[a]

Officer in charge of custom-house

If any box, place or closed receptacle in any such vessel be locked, and the keys be withheld, such officer shall report the same to the offi-

[a] See The Customs Consolidation Act, 1853 (16 & 17 Vic., c. 107), s. 48.

cer in charge of the custom-house, who may thereupon issue to the officer on board, or to any other officer under his authority, a written order to search; and, on production of such order, it shall be competent to the officer bearing the same to require that any place, box or closed receptacle in such vessel be opened in his presence; and, if it be not opened upon his requisition, to break the same open; and any goods that shall be found concealed therein, and that shall not be duly accounted for to the satisfaction of the officer in charge of the custom-house, shall be liable to confiscation.

may authorize search and opening of locks.

Goods concealed liable to confiscation.

45. If any master or commander of a vessel shall refuse to allow such vessel, or any box, place or closed receptacle in such vessel, to be searched when so required by an officer of customs bearing a written order to search; or if an officer of customs shall place any lock, mark or seal upon any goods, and such lock, mark or seal shall be wilfully opened, altered or broken before due delivery of such goods; or if any such goods shall be secretly conveyed away; or if any hatchway or entrance to the hold, after having been fastened down by an officer of customs, shall be opened without his permission, in every such case the master or commander of such vessel shall be liable, upon conviction before a Magistrate, to a penalty not exceeding one thousand rupees.

Penalty for masters resisting search, &c.

46. No vessel arriving in any port in British India from any foreign port or place, shall be allowed to break bulk until a report or manifest shall have been delivered as hereinbefore provided; nor until a copy of such report or manifest, together with an application for entry inwards, shall have been presented to the officer in charge of the custom-house, and order shall have been given thereon by such officer for the discharge of the cargo.[a]

Bulk not to be broken until manifest, &c., delivered, and ship entered at custom-house.

The officer in charge of the custom-house may refuse to give such order, until any port-clearance, cockett or other paper, which he shall know or have reason to believe had been granted at the place from which the vessel is stated to have come, shall likewise have been delivered to him.

Power to require delivery of other papers.

Nothing in this section shall prevent an officer in charge of a custom-house from granting, on receipt of the original report or manifest, and prior to the entry of the vessel at the custom-house, a special pass, under such rules as shall from time to time be prescribed by the Chief Customs Authority of the presidency or place, for the unshipping of bullion or treasure.

and to grant special pass, for unshipping treasure.

47. The master or commander of every vessel arriving from any foreign port or place shall, at the time of applying for entry inwards at any port

Master, if required, to deliver bill of

[a] See 16 & 17 Vic., c. 107, s. 53, and notification, dated 27th February 1874, *Calcutta Gazette*, 4th March 1874, Part I, p. 494.

lading, &c., to officer in charge of custom-house.

in British India, deliver to the officer in charge of the custom-house, if required so to do, the bill of lading or a copy thereof for every part of the cargo laden on board, and shall answer all such questions relating to the vessel, cargo, crew and voyage as shall be put to him by such officer.

Penalty for false entry, fraudulent alteration, &c.

If any such bill of lading or copy thereof shall be false; or if any such bill of lading or copy shall have been altered with fraudulent intent; or if the goods expressed in any such bill of lading or in any bill of lading of which a copy shall be so produced shall not have been *bonâ fide* shipped on board of such vessel; or if any such bill of lading so produced, or any bill of lading of which a copy shall be so produced, by any such master or commander, shall not have been made previously to the departure of the vessel from the place where the goods expressed in such bill of lading were shipped; or if any part of the cargo shall have been staved, destroyed or thrown overboard; or if any package be opened, and such part of the cargo or such package be not accounted for to the satisfaction of the officer in charge of the custom-house; in every such case the master or commander shall be liable to a penalty not exceeding one thousand rupees.

Goods not entered in manifest, &c., liable to confiscation, or extra duty.

48. No goods shall be allowed to leave any vessel unless they be duly entered in the report or manifest of such vessel. If any goods be found on board in excess of those entered in the report or manifest, or not corresponding with the specification therein contained, the fact shall be reported by the officer of customs on board, and all such goods shall be liable to confiscation, or to be charged with such increased rates of duty as the Chief Customs Authority of the presidency or place shall direct.

Penalty for not accounting for missing or deficient package, &c.

49. If any goods entered in the report or manifest shall not be found on board of the vessel, or if the quantity found be short, and if such deficiency be not accounted for to the satisfaction of the officer in charge of the custom-house, the master or commander of such vessel shall be liable, in addition to full duty, to a penalty not exceeding twice the amount of duty chargeable on the missing or deficient goods, if they be capable of being assessed therewith; or if they be not, to a penalty not exceeding five hundred rupees for every missing or deficient package of unknown value.

Amendment of obvious errors, &c.

50. Nothing contained in the two sections last preceding shall be construed to prevent any officer in charge of a custom-house from permitting the master or commander of any vessel to amend any obvious error, or to supply any omission resulting from accident or inadvertence, by furnishing an amended or supplementary report or manifest. But the receiving of such amended or supplementary document shall always be discretionary with the officer in charge of the custom-house; who, if he decide to receive any such

amended or supplementary report or manifest, may levy thereon such fee as the Chief Customs Authority of the presidency or place shall from time to time direct.

51. A period of fifteen working days after the entry of a vessel not exceeding six hundred tons, or such other period as the officer in charge of the custom-house shall direct, shall be allowed (without charge for the officer of customs) for the landing of import-cargo from such vessel.[a] Period allowed for landing import-cargo.

One additional day shall in like manner be allowed for every fifty tons in excess of six hundred.

If the period occupied in the landing of import-cargo be in excess of that so allowed, the vessel shall be charged with the expense of the officer of customs at a rate not exceeding five rupees per diem (Sundays and holidays excepted) for such excess period. Consequence of exceeding same.

52.[b] If the importer, owner or consignee of any goods (except such as shall have been declared by the master or commander as not to be landed), or the agent of such importer, owner or consignee, shall not land such goods within such number of working days, not exceeding fifteen, after the entry of the vessel importing the same as the Local Government shall from time to time appoint by notification in the official Gazette, or within such further period as the bill of lading of such vessel shall specify, Procedure in respect of goods not landed within time allowed.

the master or commander of the vessel, or the officers of customs on his application, may then carry such goods to the custom-house.

The officer in charge of the custom-house shall thereupon take charge of and grant receipts for such goods;

and if notice in writing shall have been given that the goods are to remain subject to a lien for freight, primage, general average or other charges of a stated amount, he shall hold such goods until the said charges shall be paid.

53.[c] If the cargo of any vessel, with the exception of a small quantity only of goods, shall have been landed within the period so appointed, or such further period as the bill of lading shall specify, the officers of customs may, on the application of the master or commander of such vessel, direct that such remaining goods shall forthwith be carried in like manner to the custom-house. And in case of goods landed in time, with exception of only small quantity.

54.[d] If any period earlier than the number of working days so appointed is specified in the bill of lading of such vessel for the discharge of her cargo Effect of not discharging cargo in

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[a] See 6 Bombay, O. C. J., 71: S. C. on appeal, 8 *ibid.*, O. C. J., 186, 195: *Calcutta Gazette*, 4th March 1874, p. 494.

[b], [c] See Act No. XVII of 1869.

[d] See Act No. XVII of 1869.

earlier period specified in bill of lading.

or any part thereof, and if the importer, owner or consignee of such cargo, or his agent, shall not land the same within such specified period, the master or commander of such vessel, or the officers of customs on his application, may then carry such goods to the custom-house.

The officer in charge of the custom-house shall thereupon take charge of and grant receipts for such goods;

and if notice in writing shall have been given that the goods are to remain subject to a lien for freight, primage, general average or other charges of a stated amount, he shall hold such goods until the said charges shall be paid.

Goods may be landed at any time after arrival, with consent.

55. At any time after the arrival of any vessel, the officer in charge of the custom-house may, with the consent of the master or commander of such vessel, cause any small package or parcel of goods to be carried to the custom-house, there to remain for entry in charge of the officers of customs during the remainder of the working days allowed, under the provisions of this or any other Act relating to customs, for the landing of such package or parcel.

Holding unclaimed goods pending payment of charges.

If any package or parcel so carried to the custom-house shall remain unclaimed on the expiration of the number of working days so allowed for its landing, or at the time of the clearance outwards of the vessel from which it was landed, the master or commander may give such notice as is provided in section 52 of this Act, and the officer in charge of the custom-house shall thereupon be bound to hold such package or parcel as provided in the said section.

Procedure in case of non-payment of duties within four months after entry of vessel.

56. If the duties chargeable upon any goods carried to the custom-house under the provisions of any of the four sections last preceding, together with the freight, primage, charges of landing and removal, rent and other charges, to which such goods shall be liable, shall not be paid within four months from the date of entry of the vessel, or if such goods shall not be duly warehoused within such period, such goods may, after due notice in the official Gazette, be sold by public auction, and the proceeds thereof shall then be applied,

first, to the payment of freight, primage and general average;

next, to the payment of duties, and

then to the payment of other charges.

The overplus, if any, shall be paid to the importer, owner or consignee of the goods, or to his agent, on his application for the same;

provided that such application be made within one year from the sale of the goods, or that good reason be shown why such application was not so made.

If any such goods be of a perishable nature, the officer in charge of the custom-house may at any time direct the sale thereof, and shall apply the proceeds in like manner. Perishable goods.

Nothing in this section shall be held to authorize the passing for home-consumption of any dutiable goods without payment of duties of customs thereon. Goods for home-consumption.

57. If any goods be not cleared for home-consumption or for warehouse within two months from the date of landing of such goods, or within such further period as the officer in charge of the custom-house shall direct, such goods may, after due notice in the official Gazette, be sold by public auction, and the proceeds thereof shall then be applied to the payment of duties and other charges. The overplus, if any, shall be paid to the importer, owner or consignee of the goods, or to his agent, on his application for the same; provided that such application be made within one year from the date of the sale of the goods, or that good reason be shown why such application was not so made. Goods not cleared within two months from date of landing may be sold. Disposal of proceeds.

Provided also that where such goods are arms, ammunition, or military stores, they may be sold or otherwise disposed of at such place (whether within or without British India) and in such manner as the Local Government may from time to time direct.[a] Disposal of arms and ammunition.

58. Except with the written permission of the officer in charge of the custom-house, no goods, with the exception of passengers'-baggage, shall on any Sunday, or on any holiday or day on which the discharge of cargo is or shall be prohibited by the Chief Customs Authority of the presidency or place, be discharged from any vessel arriving at any port in British India from any foreign port or place; nor, except with such written permission, shall any goods be so discharged on any day, except between such hours as the Chief Customs Authority shall, from time to time, appoint by notice in the official Gazette; nor without the presence or authority of an officer of customs. Goods not to be landed on Sundays, holidays, &c., without permission; nor except within fixed hours, &c.

Any master or commander of a vessel who shall cause or suffer any goods to be removed contrary to any of the provisions of this section, shall in every such case be liable to a penalty not exceeding one thousand rupees; and all goods so unauthorizedly removed shall be liable to confiscation. Penalty.

59. If any goods shall be removed from on board of any vessel for the purpose of being landed and passed for importation, such goods shall be forthwith removed to, and landed at, the wharf or other place appointed for the landing of such goods. Goods removed from ship to be forthwith landed.

If such goods be not so removed or landed, or if the boat containing such goods be found out of the proper track between the vessel and such wharf or Otherwise liable to confiscation.

[a] See Act No. XVI of 1875, sec. 12.

other proper place of landing, and such deviation be not accounted for to the satisfaction of the officer in charge of the custom-house, such goods, together with any vessel or boat employed in removing them, shall be liable to confiscation.

Goods landed at other than appointed place liable to confiscation.

60. No goods which shall have been discharged from any vessel under the authority of an officer of customs shall be landed, except at the wharf or other place appointed for the landing of such goods.

Transshipment of discharged goods.

No goods which shall have been discharged into any boat for the purpose of being landed shall, previously to their being landed, be transshipped into any other boat without the permission of an officer of customs.

Any goods landed or transshipped contrary to the provisions of this section shall be liable to confiscation.

Goods landed without boat-note liable to confiscation, and person in fault to penalty.

61. When any goods shall be sent from on board of any vessel for the purpose of being landed and passed for importation, there shall be sent with each boat-load, or other separate despatch, a boat-note specifying the number of packages so sent, and the marks and numbers or other description thereof.

Each boat-note shall be signed by an officer of the vessel, and likewise by the officer of customs on board, if any such officer be on board.

If any goods sent to be landed be found without a boat-note in any boat proceeding to land, such goods shall be liable to confiscation; or the person by whose authority the goods are being landed, or the person in charge of the boat, if it appear that the fault was with him, shall be liable to a penalty not exceeding twice the amount of duty leviable on the said goods.[a]

Entry for home-consumption.

62. The importer, owner or consignee of any goods liable to duties of customs, and intended to be delivered for home-consumption on the landing thereof from the importing ship, or the agent of such importer, owner or consignee, shall make entry of such goods by delivering to the officer in charge of the custom-house a bill of entry thereof in such form and containing such particulars as may, from time to time, be directed by the Chief Customs Authority of the presidency or place.

The particulars of such entry shall correspond with the particulars given of the same goods and packages in the report or manifest of the ship.

Whenever the value of any goods is required to be stated in the entry, the importer, owner or consignee, or his agent, shall subscribe a declaration of the truth of such value at the foot of such entry.

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[a] "All goods found on board any boat in excess of the boat-note or custom-house pass, whether such goods are intended to be landed or to be shipped on board any vessel, shall be liable to confiscation"—Act No. XIV of 1871, section 3.

Provided that, if the importer, owner or consignee, or his agent, shall make a declaration before the officer in charge of the custom-house to the effect that he is unable, from want of full information, to state the value or contents of any case, package or parcel of goods, then the officer in charge shall permit him, previous to the entry thereof, to open such case, package or parcel, and examine the contents in presence of an officer of customs.

Except as provided in section 27 of this Act for cases of obvious error, no re-valuation of goods assessed for duty on the declared value thereof shall be allowed after such goods shall have been removed from the custom-house.

63. If, without entry duly made, any goods shall be taken or passed out of any custom-house or wharf, the person so taking or passing such goods shall in every such case be liable to a penalty not exceeding five hundred rupees.

Penalty for goods being delivered without entry.

Provided that no entry shall be required in respect of passengers' baggage, which may be examined, landed and delivered under such rules as shall from time to time be made under section 4 of this Act by the Chief Customs Authority of the presidency or place.

Proviso as to passengers' baggage.

Any prohibited or dutiable goods found, either before or after landing, concealed in any such baggage, together with the other contents of the package in which they are found, shall be liable to confiscation.

Confiscation of concealed goods.

64. If, after any goods have been landed and before they have been passed through the custom-house, the importer, owner or consignee, or his agent, or any one acting on his behalf, removes or attempts to remove them with the intention of defrauding the revenue, such goods shall be liable to confiscation; or, if the goods cannot be recovered, the owner shall be liable, in addition to full duty, to a penalty not exceeding twice the amount of such duty, if the goods be capable of being assessed therewith; or, if they be not, to a penalty not exceeding one thousand rupees for every missing or deficient package of unknown value.

Penalty for goods being removed after landing and before due entry.

65. No claim for any abatement or refund of duty, on account of damage alleged to have been sustained before entry, shall be allowed in respect of any goods imported into any port in British India, unless such claim be made in writing, and the damaged condition of such goods be ascertained and certified, on the first examination thereof, by a custom-house appraiser, or by such other person as the officer in charge of the custom-house shall appoint for the purpose.

Claims to abatement of duty on account of damage how treated.

66. Goods, the damaged condition of which is ascertained and certified to the satisfaction of the officer in charge of the custom-house, may, after notice in the official Gazette, be sold by public auction at such time (within

Disposal of damaged goods and levy of duty thereon.

thirty days from the date of entry), and at such place, as the officer in charge of the custom-house shall appoint.

The duty on such goods shall be adjusted on the gross amount realized by their *bonâ fide* sale, as proved by the original account-sales, without any abatement or deduction whatsoever, except of so much as represents the duties payable on the importation thereof.

On goods for which a specific value has been fixed by or under the Indian Tariff Act, 1875,[a] no abatement of duties shall be allowed, unless they be deteriorated to the extent of one-fifth of their value.

No abatement of duty on account of damage shall be allowed on wines, spirits or beer, or on any other articles on which duties are levied on quantity and not on value.

Goods derelict and wreck treated as foreign goods.

67. All goods derelict, jetsam, flotsam and wreck, brought or coming into any port in British India, shall, at all times, be subject to the same duties to which goods of the like kind are subject on importation at such port, unless it shall be shown to the satisfaction of the officer in charge of the custom-house, that such goods are the produce or manufacture of any country or place, by virtue whereof they are entitled to be admitted duty-free; or that such goods, if liable to duty, are entitled to an abatement in respect of damage.[b]

Power to require goods to be weighed or measured before landing.

68. The officer in charge of the custom-house, whenever he shall see fit, may require that goods brought by sea, and stowed in bulk, shall be weighed or measured on board-ship before landing, and may levy duty according to the result of such weighing or measurement.

No duty on portion of import-cargo intended for other port, ship's stores, &c.

69. Any portion of an import-cargo intended for another port, or any ship's stores intended for the home-voyage, may be declared by the master or commander of any vessel as not to be landed, and may thereupon, with the special sanction of the officer in charge of the custom-house, be retained on board, and such cargo or ship's stores so retained shall not be subject to the payment of duty.

Entry thereof in export-manifest.

Provided that all such cargo and ship's stores shall be entered in the export-manifest of the vessel, as cargo or ship's stores not landed, and on which no duty has been paid.

Power to secure them during stay in port.

Nothing in this section shall prevent the officer in charge of the custom-house from sealing up, or otherwise securing, if he see reason for so doing, any portion of such cargo or ship's stores during the vessel's stay in port.

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[a] See Act No. XVI of 1875, sec. 12.

[b] 16 & 17 Vic., c. 107, sec. 78.

WAREHOUSING.

70. It shall be lawful for any person who has imported any goods into any warehousing port in British India to deposit such goods, without payment of duty on the first entry thereof, in any public or private warehouse, approved, appointed or licensed under this Act.

Warehousing without payment of duty.

71. Every building in any warehousing port or place which the Chief Customs Authority of the presidency or place shall, from time to time, approve or appoint for the purpose, shall be a public warehouse for the reception of goods under this Act.

Public warehouses.

Every public warehouse shall be under the lock and key of a warehouse-keeper appointed by the chief officer of customs of the port or place in which it is situated.

The warehouse-keeper shall, to the extent provided in sections 76 and 93 of this Act, and not otherwise, be responsible for the charge of all goods deposited in his warehouse, and for their due reception therein and delivery therefrom.

Responsibility of keeper.

72. The Chief Customs Authority of the presidency or place may from time to time determine in what divisions of any public warehouse, and in what manner, and on what terms, including rates of rent, any goods, and what sort of goods, may be deposited without payment of duty on the first entry thereof.

Power to settle as to deposit in public warehouse.

A table of the rates of rent so fixed for every public warehouse shall be placed in a conspicuous part thereof.

Exhibition of rent-rates.

73. At any warehousing port or place, the chief officer of customs of the port or place shall have power to license private warehouses for the reception of goods under this Act without payment of duty on the first entry thereof.

Licensing private warehouses at warehousing ports.

Every license for a private warehouse so granted shall, unless it be otherwise provided in the license, be liable to be revoked after one month's notice by the chief officer of customs of the port or place in which such warehouse is situated.

Revocation of license.

74. Every application for a license for a private warehouse shall be in writing, and shall be drawn up in the form marked A annexed to this Act, or in such other form as shall from time to time be prescribed by the Chief Customs Authority of the presidency or place, and shall be signed by the applicant.

Form of application for license for private warehouses.

75. Every application for the admission of goods into any public or private warehouse shall be in writing, and shall be drawn up in the form marked B annexed to this Act, or in such other form as shall from time to

Form of application for admission of goods into warehouse.

time be prescribed by the Chief Customs Authority of the presidency or place, and shall be signed by the applicant.

Goods to be assessed for customs-duty before warehousing.

76. No goods shall be warehoused without payment of duty on the first entry thereof unless such goods shall have been assessed for customs-duty in like manner as goods intended to be passed for home-consumption.

Responsibility for weight or gauge.

The warehouse-keeper in respect of goods lodged in a public warehouse, and the person who obtained the license in respect of goods lodged in a private warehouse, shall be answerable for the weight or gauge reported by the custom-house officer who shall have assessed such goods, allowance being made, if necessary, for ullage and wastage as provided in section 95 of this Act.

Re-assessment on clearance for home-consumption.

Nothing in this section shall interfere with the re-assessment for duty of warehoused goods on their clearance for home-consumption, should an alteration of any duty, or of any fixed valuation for duty, render such re-assessment requisite with reference to the provisions of section 29 of this Act.

Bond of importer, &c., for duty assessed.

77. When an application shall have been made for the warehousing of any goods under this Act, and when such goods shall have been assessed for duty as directed in the last preceding section, the importer, owner or consignee, or his agent, shall be required to execute a bond for the amount of such duty in the form marked C annexed to this Act, or in such other form as shall from time to time be prescribed by the Chief Customs Authority of the presidency or place.

Every such bond shall relate to the duties chargeable on the cargo or portion of the cargo of one vessel only.

Terms of bond to be executed.

78. Every bond shall be for twice the amount of duty assessed on the goods to which it relates, and shall stipulate for the payment, on demand, of any sum due on account of any such goods, together with interest on such sum from the date of demand at such rate, not exceeding six per cent. per annum, as shall be fixed by the Chief Customs Authority of the presidency or place.

Every person who shall execute any such bond shall be bound thereby for the payment of all duties, interest and charges that shall be claimable on account of the goods, and of penalties incurred for violation of the customs-law in respect to the same.

Period for which goods may remain warehoused.

79. When any such bond shall have been executed, the goods to which such bond relates shall be allowed to remain in warehouse for a period not exceeding three years, without being liable to the demand of import-duty.

Penalty for improper carrying into warehouse.

80. If any goods entered to be warehoused shall be carried into the warehouse, unless with the authority or under the care of the proper officers of customs, and in such manner, by such persons, within such time and by

such roads or ways, as such officers shall direct, such goods shall be liable to confiscation, and the person so carrying them shall be liable to a penalty not exceeding one thousand rupees.

Procedure in respect of goods to be warehoused.

81. When the provisions of sections 75, 76, 77 and 78 shall have been complied with in respect to any goods, such goods shall be forwarded in charge of an officer of customs to the warehouse in which they are to be deposited.

There shall be sent with the goods a pass in which the name of the importing vessel, and of the bonder, the marks, numbers and contents of each package, and the warehouse or place in the warehouse wherein they are to be deposited, shall be specified.[a]

On receipt of the goods into the warehouse, the correctness of the pass, if it be correct, shall be duly certified by the proper officer, and the pass shall be returned to the officer in charge of the custom-house, after which the warehousing of such goods shall be deemed to have been completed.

When not properly warehoused and liable to confiscation.

If any goods entered to be warehoused shall be withheld or removed from any proper place of examination, before they shall have been examined and certified by the proper officer, it shall be deemed that such goods have not been duly warehoused, and they shall be liable to confiscation.

Penalty for mis-description of goods.

82. When goods are passed by tale or by package, the importer, owner or consignee of such goods, or his agent, shall, for every omission or mis-description thereof, tending to injure the revenue, be liable to a penalty not exceeding ten times the amount of duty which might have been lost to Government by such omission or misdescription, unless it shall be proved to the satisfaction of the officer in charge of the custom-house that the variance was accidental.

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[a] "As often as any goods are lodged in a public warehouse or a licensed private warehouse, the warehouse-keeper, or, in the case of the Bengal Bonded Warehouse Association, the Secretary of the said Association, shall deliver a warrant signed by him as such to the person lodging the goods.

Such warrant shall be in the form in the schedule to this Act annexed, and shall be transferable by endorsement; and the endorsee shall be entitled to receive the goods specified in such warrant on the same terms as those on which the person who originally lodged the goods would have been entitled to receive the same"—Act No. XIV of 1871, section 2.

SCHEDULE.

FORM OF BONDED WAREHOUSE WARRANT.

I do hereby certify that have deposited in the warehouse of the under-mentioned goods which goods the engage on demand, after payment of rent and incidental charges and Government dues or customs chargeable thereon, to deliver to the said or their assigns, or to the holder of this warrant to whom it may be transferred by endorsement.

Rectifying over-statement of quantity or value.

If the quantity or value of any goods shall have been over-stated on importation, the error may be rectified at any time before the warehousing of the goods shall be completed.

Packages, &c., to be marked and numbered before admission into warehouse.

83. No package, butt, cask or hogshead shall be admitted into any public or private warehouse, unless it bear the marks and numbers specified in the pass for its admission. All goods shall be warehoused in the packages, butts, casks or hogsheads in which they shall have been imported, except as provided in section 92 of this Act.

Proviso as to confiscation.

If any such goods be not so warehoused, or if any alteration be made in goods so warehoused, or in the packing thereof, except as provided in the said section, or if any such goods be removed from the warehouse in which they were originally deposited, except in presence or with the sanction of the proper officer, or under the proper authority for their delivery, such goods shall be liable to confiscation.

Penalty for neglecting to stow goods properly in warehouse.

84. If the keeper of any public warehouse, or the person who has obtained a license for any private warehouse, shall neglect to stow the goods warehoused therein, so that easy access may be had to every package and parcel thereof, he shall for every such neglect be liable to a penalty not exceeding fifty rupees.

Or for neglecting to produce goods when required.

85. If the keeper of any public warehouse, or the person who has obtained a license for any private warehouse, shall fail, on the requisition of any officer of customs, to produce any goods which shall have been deposited in such warehouse, and which shall not have been duly cleared and delivered therefrom, he shall, for every such neglect, be liable not only to pay the duties due on such goods, but also to a penalty not exceeding fifty rupees in respect of every package or parcel so missing or deficient.

Goods entered to be warehoused, if not duly warehoused, or if concealed or removed, liable to be confiscated.

86. If any goods entered to be warehoused shall not be duly warehoused in pursuance of such entry, or after being duly warehoused shall be fraudulently concealed in or removed from the warehouse, or abstracted from any package, or transferred from one package to another, or otherwise, for the purpose of illegal removal or concealment, such goods shall be liable to confiscation.

Officer in charge of custom-house may cause warehoused packages to be examined.

87. The officer in charge of the custom-house shall have authority at any time to issue his written order to cause any goods or packages lodged in any public or private warehouse to be opened, weighed, or otherwise examined as he shall direct; and after any goods shall have been so opened or examined, to cause the same to be sealed or marked in such manner as to him may seem fit.

Reopening of goods sealed

When any goods shall have been so sealed and marked after examination, they shall not be again opened without permission from the officer in charge of

the custom-house ; and when any such goods shall be opened with the permission of such officer, the packages shall, if it shall seem fit to such officer, again be sealed or marked as before.

after examination.

88. The officer in charge of the custom-house, or any officer deputed by him for the purpose, shall have access to any private warehouse licensed under this Act ; and if the person who has obtained a license for any such private warehouse shall not open the same when required so to do by any officer entitled under this Act or under any other law to have access thereto, or shall, upon demand made by any such officer at any time within the hours of business at the port, refuse access to any such officer, such person shall be liable to a penalty not exceeding one thousand rupees, and shall further be liable to have his license forthwith cancelled and withdrawn.

Penalty for licensee of private warehouse refusing access to customs-officers.

89. Every bond executed for duty chargeable on goods deposited in any private warehouse shall become due and may be put in suit for the levy of such duties and other demands of customs after seven days shall have passed from the date on which the officer in charge of the custom-house shall have given notice that the license for such warehouse is withdrawn.

When bond due, for duty on goods in private warehouse deprived of license.

90. Any importer, owner or consignee of goods lodged in a public or private warehouse under this Act, or the agent of any such importer, owner or consignee shall, at any time within the hours of business, have access to his goods in presence of an officer of customs, and an officer of customs shall be deputed to accompany any such person upon application for the purpose being made in writing to the officer in charge of the custom-house.

Access of owners, &c., to warehoused goods.

When an officer of customs is deputed as above, the person making the application shall, if required so to do, pay into the hands of the officer in charge of the custom-house a sum sufficient to meet the expense of employing a special officer for this purpose, whenever the officer in charge of the custom-house shall find it expedient to employ such special officer.

Cost of special officer deputed to accompany owner, &c.

91. If the importer, owner or consignee of any warehoused goods, or the agent or any person in the employ of such importer, owner or consignee, shall clandestinely open any warehouse, or, except in presence of the proper officer of customs, gain access to his goods, such importer, owner, consignee or agent shall, in every such case, be liable to a penalty not exceeding one thousand rupees.

Penalty for owner, &c., clandestinely gaining access to warehoused goods.

92. With the sanction of the officer in charge of the custom-house, and after such notice given, and under such rules and conditions as the Chief Customs Authority of the presidency or place shall from time to time prescribe, it shall be lawful for any importer, owner or consignee of goods, or his agent, either before or after warehousing, to sort, separate, pack and re-pack any

Sorting, re-packing, &c., of warehoused goods.

goods, and to make such alterations therein as may be necessary for the preservation, sale, shipment or disposal thereof (such goods to be re-packed in the packages in which they were imported, or in such other packages as the officer in charge of the custom-house shall permit);

Filling casks of liquor.

and also to fill up any casks of wine, spirits or beer, from any casks of the same secured in the same warehouse;

Mixing wines.

and also to mix any wines of the same sort, erasing from the cask all import-brands, unless the whole of the wine so mixed be of the same brand;

Taking samples.

and also to take such samples of goods as may be allowed by the officer in charge of the custom-house, with or without entry, and with or without payment of duty, except as the same may eventually become payable on a deficiency of the original quantity;

Destroying refuse.

and after such goods have been so separated and re-packed in proper or approved packages, the officer in charge of the custom-house may, at the request of the importer, owner or consignee of such goods, or his agent, cause or permit any refuse, damaged or surplus goods remaining after such separation or re-packing (or, at the like request, any goods which may not be worth the duty) to be destroyed, and may remit the duty payable thereon.

Remission of duty.

Compensation for loss or injury admissible only in case of proved wilful neglect, &c.

93. No importer, owner or consignee of goods shall be entitled to claim from the officer in charge of the custom-house, or from any keeper of a public warehouse, compensation for any loss or injury that may occur to such goods while they are being passed into or out of such warehouse, or while they remain therein, unless it shall be proved that such loss or injury was occasioned by the wilful act or neglect of the warehouse-keeper or of an officer of customs.

Chief Customs Authority may remit duties on warehoused goods lost or destroyed.

94. If any goods warehoused or entered to be warehoused, or entered to be delivered from a warehouse, shall be lost or destroyed by unavoidable accident or delay either on board of any vessel, or in landing, or during receipt into the warehouse, or in the warehouse, the Chief Customs Authority of the presidency or place may remit the duties due thereon or return them if paid.

Notice of loss in private warehouse.

Provided that, if any goods be so destroyed in a private warehouse, notice thereof be given to the officer in charge of the custom-house within forty-eight hours after the discovery of such destruction.

Re-assessment of duty on goods damaged.

If goods lodged in a warehouse shall receive damage through unavoidable accident, they shall be re-assessed for duty according to their actual value, and a new bond for the same shall be executed for the unexpired term of warehousing.

Import-duty on quantity or value registered at time of importation.

95. The import-duty on all goods shall be settled on the quantity or value thereof, as the case may be, registered at the time of importation, without any deduction whatever.

Provided that if it shall appear, at the time of clearing any wines, spirits, beer or salt from any warehouse, that a deficiency exists, an allowance (on account of ullage and wastage) shall be made in adjusting the duties thereon, to an extent not exceeding the rates specified below, or in such table as may from time to time be prescribed in this behalf by the Local Government and notified in the official Gazette :— Proviso as to wines, spirits, beer or salt.

Rates of ullage or wastage in respect to Wines, Spirits and Beer in cask.

For any time not exceeding ————	6 months	... ...	2½ per cent.
Exceeding 6 months and not exceeding	12 months	... ...	5 "
Exceeding 12 months and not exceeding	18 months	... ...	7½ "
Exceeding 18 months and not exceeding	2 years	... ...	10 "
Exceeding 2 years and not exceeding	3 years	... ..	12½ "

When salt is warehoused in a Government gola or store-house under charge of a Government officer, duty of customs shall be chargeable only on the amount actually cleared.

The rate of wastage to be allowed in adjusting the duties on salt warehoused in a private gola or store-house, shall be prescribed from time to time by the Local Government and notified in the official Gazette.

96. If any goods lodged in a private warehouse shall be found to be deficient at the time of delivery therefrom, the person who obtained the license for such warehouse shall, unless the deficiency be accounted for to the satisfaction of the officer in charge of the custom-house, be liable to a penalty equal to five times the duty chargeable on the goods so deficient. Penalty for deficiencies in private warehouse if beyond ullage and wastage allowed.

Provided that nothing in this section shall apply to any wines, spirits, beer or salt, the deficiency in which is proved to be due solely to ullage or wastage; and that it shall be competent to the Chief Customs Authority of any presidency or place to direct, in respect to any such article, and for the purposes of this section, that allowance be made in any special case for a rate of ullage or wastage exceeding that contemplated in the last preceding section. Saving of wines, spirits, beer and salt. Extra allowance for ullage and wastage.

97. If any goods lodged in a private warehouse shall be found to exceed the registered quantity, such excess, unless accounted for to the satisfaction of the officer in charge of the custom-house, shall be charged with five times the ordinary duty thereon. Penalty for excess in private warehouse, over registered quantity.

When any penalty shall be incurred under this or the last preceding section, the goods in respect of which such penalty is incurred shall not be removed until the penalty is paid. Penalty to be paid before removal.

98. No goods shall be removed from any warehouse, except after application to the officer in charge of the custom-house for permission to pass the goods for exportation by sea to some foreign port or place; or for home-consumption, in like manner as other goods are passed through the custom-house; or for removal to another warehouse, as provided in sections 105, 106, 107 and 108 of this Act. Goods not to be removed from warehouse, except after application to officer in charge of custom-house.

Form of application for removal of goods.

99. Application to remove goods from any warehouse shall be made in the form marked D annexed to this Act, or in such other form as the Chief Customs Authority of the presidency or place may from time to time prescribe.

Twenty-four hours' notice to be given.

Such application shall ordinarily be made to the officer in charge of the custom-house twenty-four hours before it is intended so to remove such goods.

Penalty if goods taken out of warehouse illegally.

100. If any goods shall be taken out of any warehouse otherwise than as is provided in this Act, the bonder shall forthwith pay the duties due upon such goods;

and every person who shall so take out any goods without payment of duty, or who shall aid, assist or be concerned therein, shall, in every such case, be liable to a penalty not exceeding one thousand rupees.

Remission of duty and payment for damage when customs-officer is offender.

If the person so offending be an officer of customs not acting in execution of his duty, and be prosecuted to conviction by the importer, owner or consignee of such goods, no duty shall be payable in respect of such goods, and any damage so occasioned by such officer shall, with the sanction of the Chief Customs Authority of the presidency or place, be repaid by the officer in charge of the custom-house to such importer, owner or consignee.

Expenses of carriage, packing, &c., borne by owner.

101. The expenses of carriage, packing and stowage of goods on their reception into or removal from a warehouse, shall, if paid by the officer in charge of the custom-house or by the warehouse-keeper, be chargeable on the goods, and be defrayed by the importer, owner or consignee, in like manner as the duties of customs.

Payment of rent and warehouse-dues.

102. If goods be lodged in a public warehouse, the importer, owner or consignee shall further pay monthly, on receiving a bill or written demand for the same from the warehouse-keeper, the rent and warehouse-dues.

In case of failure, goods may be sold, &c.

If any such bill for rent or warehouse-dues be not discharged within ten days from the date of presentation, the officer in charge of the custom-house shall have power, in liquidation of such demand (any transfer or assignment of the goods notwithstanding), to cause to be sold by public auction, after due notice in the official Gazette, such sufficient portion of the goods as he may select.

Disposal of proceeds.

Out of the proceeds of such sale the officer in charge of the custom-house shall first satisfy the demand for the liquidation of which the sale was ordered, and shall then pay over the surplus, if there be any, to the importer, owner or consignee;

provided that application for the same be made within one year from the date of the sale of the goods, or that good reason be shown why such application was not so made.

103. If any goods warehoused as provided in this Act shall be removed or taken from the warehouse, otherwise than for removal to another warehouse as provided in sections 105, 106, 107 and 108 of this Act, or for exportation by sea to some foreign port or place; or

On goods being removed otherwise than for export, &c., full duty to be paid.

if any goods shall not have been cleared from the warehouse and so exported at the expiration of the time during which such goods are permitted by this Act to remain in warehouse,

the officer in charge of the custom-house shall thereupon demand the full amount of import-duty which is chargeable on account of such goods, together with all charges or penalties due on account of them.

104. If any importer, owner or consignee shall fail to pay any duty or penalty that shall fall due on account of goods warehoused under this Act, it shall be lawful for the officer in charge of the custom-house, either to proceed upon the bond executed by such importer, owner or consignee, or to cause such portion as to him shall seem fit, of the warehoused goods on account of which the duty or penalty is demanded, to be detained in satisfaction thereof; and if the demand be not discharged within ten days from the date of such detention (due notice thereof being given to the importer, owner or consignee), the goods so detained shall be liable to be sold by public auction in satisfaction of the demand after due notice in the official Gazette.

On failure to pay duty, officer in charge of custom house may proceed upon bond, or detain goods, and sell after ten days, if demand not paid.

The proceeds of any sale so made of goods so detained, shall be written off upon the bond in discharge thereof to the amount received, less the charges of the sale; and if any surplus be obtained from such sale, beyond the amount of the demand, such surplus shall be paid over to the importer, owner or consignee of the goods;

Disposal of proceeds.

provided that application for the same be made within one year from the date of the sale, or that good reason be shown why such application was not so made.

No transfer or assignment of goods shall prevent the officer in charge of the custom-house from proceeding against such goods in the manner above provided for any demand of customs-duties or penalty claimed thereon.

Transfer not to bar proceeding against goods.

105. Any importer, owner or consignee of goods warehoused under this Act, or any agent of such importer, owner or consignee, may, with the permission of the chief officer of customs of the port, and on such conditions and after giving such security as the Chief Customs Authority of the presidency or place shall direct, remove goods from one public or private warehouse to another warehouse in the same port.

Removal of goods from one warehouse to another.

When any person shall desire so to remove any goods, he shall make application in the form marked E annexed to this Act, or in such other form as the said Chief Customs Authority shall from time to time prescribe.

Application for removal.

Bonded goods may be removed from one port to another.

106. Goods warehoused under this Act at any port or place in British India may in like manner be removed by sea or by inland carriage in order to be re-warehoused at any other port or place in British India in which the like kind of goods may lawfully be warehoused.

Such goods may also again in like manner be removed to any other such port or place, to be there again re-warehoused.

Application for removal.

When any person shall desire so to remove any goods, he shall make application to the chief officer of customs of the port or place at which they are warehoused, stating the particulars of the goods to be removed, and the name of the port or place to which it is intended that they shall be removed, together with such other information, and in such manner and form, as the Chief Customs Authority of the presidency or place shall from time to time prescribe.

Transmission of account from port of removal to port of destination.

Owner to execute bond for due arrival, &c.

107. When permission is granted for the removal of any goods from one warehousing port or place to another under the last preceding section, an account containing the particulars thereof shall be transmitted by the proper officer of the port or place of removal to the proper officer of the port or place of destination, and the person requiring the removal shall enter into a bond, with one sufficient surety, in a sum equal at least to the duty chargeable on such goods, for the due arrival and warehousing thereof at the port or place of destination, within such time as the Chief Customs Authority of the presidency or place shall direct.

Such bond may be taken by the proper officer, either of the port or place of removal, or of the port or place of destination, as shall best suit the residence or convenience of the persons interested in such removal.

If such bond shall be taken at the port or place of destination, a certificate thereof, signed by the proper officer of such port or place, shall, at the time of the entering of such goods, be produced to the proper officer of the port or place of removal, and such bond shall not be discharged unless such goods shall be produced to the proper officer, and duly re-warehoused at the port or place of destination, within the time allowed for such removal, or shall be otherwise accounted for to the satisfaction of such officer; nor until the full duties due upon any deficiency of such goods, not so accounted for, shall have been paid.

Power to allow remover to enter into general bond.

108. It shall be lawful for the Chief Customs Authority of any presidency or place to permit any person desirous of removing warehoused goods to enter into a general bond, with such sureties, in such amount, and under such conditions, as such Chief Customs Authority shall approve, for the removal from time to time of any goods from one warehouse to another, either in the same or in a different port or place, and for the due arrival and re-

warehousing of such goods at the port or place of destination, within such time as the said Chief Customs Authority shall direct.

109. Upon the arrival of warehoused goods at the port or place of destination, they shall be entered and warehoused in like manner as goods are entered and warehoused on the first importation thereof, and under the laws and rules, in so far as such laws and rules can be made applicable, which regulate the entry and warehousing of such last-mentioned goods.

Goods on arrival at port of destination subject to same laws as goods on first importation.

110.[a] When goods are brought in any vessel to any port in British India and application is made for leave to transship such goods for removal to some other port in British India, such transshipment shall be allowed without the payment of duty at the port of transshipment, provided that the person requiring such transshipment shall enter into a bond with such security as may be required of him, in a sum equal at least to the duty chargeable on such goods, for the due arrival and entry thereof at the port of destination within such time as the chief officer of customs of the port of transshipment shall direct.

Transshipment of goods brought into one Indian port, but intended for another.

Such goods shall thereupon be treated in all respects as warehoused goods removed under the provisions of sections 106 and 107 of this Act.

An officer of customs shall, in every case, be deputed to superintend the removal of such goods from vessel to vessel.

111. If, on the arrival at the port of destination of goods removed under the last preceding section, the person making the removal shall be desirous forthwith to export such goods by sea to some foreign port or place, or to

On arrival at destination of such goods, they may,

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[a] ACT No. XX OF 1867.

Received the Governor General's assent on the 8th March 1867.

An Act to authorize the transshipment, without payment of duty, of goods imported into Calcutta, Madras and Bombay by steamers.

Preamble.

WHEREAS in transshipping goods imported by steamers into Calcutta, Madras and Bombay and destined for other ports, delay arises from the necessity of paying duty and obtaining drawback in respect of such goods, or of entering into a bond as required by section 110 of Act No. VI of 1863 (*to consolidate and amend the laws relating to the administration of the Department of Sea Customs in India*) if duty is not paid: And whereas it is expedient to diminish such delay so far as may be practicable; It is hereby enacted as follows:—

Power to permit transshipment without payment of duty.

1. Subject to such rules as may from time to time be prescribed by the Local Government, the chief officer of customs of the port of Calcutta, Madras or Bombay, as the case may be, may, on application of any person interested as owner, agent, consignee or otherwise in any goods imported by steamers into Calcutta, Madras or Bombay, as the case may be, grant leave to transship the same without payment of duty at the port of transshipment and without any security or bond for the due arrival and entry of the goods at the port of destination, when such goods have been specially and distinctly manifested or declared at the time of import as for transshipment to any other British Indian or foreign port.

Levy of transshipment-fee.

2. A transshipment-fee on each bale or package of goods so transshipped shall be levied at such rates and under such regulations as may from time to time be prescribed by the Local Government. All such rates and regulations shall be published in the local Gazette.

Act to be read with Act VI of 1863.

3. This Act shall be read as part of the said Act No. VI of 1863, and shall not be construed as in any respect limiting the power of the customs-officers to levy duty or to require such bonds and other securities as are authorized by the said Act.

Exemption of salt and opium.

4. Nothing in this Act shall apply to the transshipment of salt or opium.

after formalities for re-warehousing, be entered for exportation or home-use on payment of duties.

pay duty thereon for home-consumption, without actually lodging the goods in the warehouse for which they had been entered, the officer in charge of the custom-house at such port of destination may, after all the formalities of entering and examining such goods for re-warehousing shall have been duly performed, permit the goods to be entered and shipped for exportation, or to be entered and delivered for home-consumption, upon payment of the duties due thereon, in like manner as if such goods had been actually lodged in such warehouse.

All goods so exported, or for which the duties have been so paid, shall be deemed to have been duly cleared from the warehouse.

Removal of goods to be noted on bond.

112. When any goods warehoused as provided in this Act shall be removed from any public or private warehouse, the officer in charge of the custom-house shall cause such removal to be noted on the back of the bond.

Particulars to be noted.

Every note so made shall specify the quantity and description of goods removed, the purposes for which they have been removed, the date of removal, the name of the person removing them, the number and date of the export-pass under which they have been taken away, if removed for exportation by sea, or of the import-pass or order, if removed for home-consumption, and the amount of duty (if any) paid.

Register of bonds to be kept.

113. A register shall be kept of all bonds entered into for customs-duties on goods warehoused as provided in this Act, and entry shall be made in such register of all particulars specified in the last preceding section.

When bonds to be cancelled and returned to obligee.

When the register shall show that the entire quantity of the goods covered by any bond has been withdrawn from warehouse, either owing to the goods being passed for home-consumption on the payment of duties, or owing to their re-exportation by sea to some foreign port or place, and when all charges and penalties which have been incurred on account of such goods shall have been paid, it shall be competent to, and shall be the duty of, the officer in charge of the custom-house to cancel such bond, as discharged in full, and to deliver it, so cancelled, to the person who shall have executed or who shall be authorized to receive it.

Duty to be settled within three years.

114. In no case shall the settlement of duty on warehoused goods be delayed beyond three years from the date of the first warehousing of the goods in British India.

Provisions applied to Bengal Bonded Warehouse Association.

115. All the provisions of this Act relating to private warehouses shall be applicable to all warehouses wherein the Bengal Bonded Warehouse Association shall receive bonded goods.

EXPORTATION.

116. No vessel shall be entitled to entry outwards, or to take on board any part of her export-cargo, until a written application shall have been duly made to the officer in charge of the custom-house by the master or commander of such vessel, or by his authorized agent, nor until an order shall have been given thereon by such officer for such entry or shipment of cargo.

Permission for entry outwards to be obtained before export-cargo put on board.

Every application made under this section shall specify the name, tonnage, and nation of the vessel, the name of the master or commander, and the name of every place for which cargo is to be shipped.

Contents of application.

If any goods be taken on board of any vessel at any port in British India before she shall have been so entered outwards at such port, the master or commander of such vessel shall be liable to a penalty not exceeding one thousand rupees.

Penalty.

117. A period of fifteen working days, after the expiration of the period allowed for discharging import-cargo under section 51 of this Act, or such further period as the officer in charge of the custom-house shall direct, shall be allowed (without charge for the officer of customs) for the shipment of export-cargo on board of every vessel not exceeding six hundred tons.[a]

Period allowed for shipment of export-cargo.

One additional day shall in like manner be allowed for every fifty tons in excess of six hundred.

If the period occupied in the shipment of export-cargo be in excess of that allowed, the vessel shall be charged with the expense of the officer of customs at a rate not exceeding five rupees per diem (Sundays and holidays excepted) for such excess period.

Consequence of exceeding same.

Due allowance shall in such case be made for any period during which a vessel, after the completion of the discharge of import-cargo, and before the commencement of the shipment of export-cargo, shall be laid up by the withdrawal of the officer of customs upon application from the master or commander.

Allowance when vessel laid up.

If the master or commander of any vessel so laid up shall, before application is made by him or his agent for an officer of customs to superintend the receipt of cargo, cause or suffer to be put on board of such vessel any goods whatever, such master or commander shall be liable to a penalty not exceeding one thousand rupees, and the goods, if protected by a pass, shall be liable to be re-landed for examination at the expense of the vessel, and if not protected by a pass, shall be liable to confiscation.

Penalty for lading in absence of customs-officer.

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[a] See *Calcutta Gazette*, 4th March 1874, p. 494.

Goods not to be shipped except on proper days and places, nor until entry and clearance.

118. Except with the written permission of the officer in charge of the custom-house, no goods, with the exception of passengers'-baggage, shall, on any Sunday, or on any holiday or day on which the shipping of cargo is or shall be prohibited by the Chief Customs Authority of the presidency or place, be shipped or water-borne to be shipped for exportation from any port in British India; nor, except with such written permission, shall any goods be so shipped or water-borne to be shipped on any day except between such hours as such Chief Customs Authority shall from time to time appoint by notice in the official Gazette; nor from any place in any such port except a wharf duly appointed for such purpose; nor without the presence of the proper officer of customs; nor before due entry outwards of the exporting vessel, and of the goods; nor before such goods shall have been duly cleared for shipment.

Penalty for contravention.

Any person who shall cause or suffer any goods to be shipped or water-borne to be shipped contrary to any of the provisions of this section shall, in every such case, be liable to a penalty not exceeding one thousand rupees; and any goods so unauthorizedly shipped or water-borne for shipment, together with any vessel in which they are being so water-borne, shall be liable to confiscation.

Customs-officer may examine goods shipped.

119. It shall be lawful for an officer of customs to open any package, and fully to examine any goods shipped or brought for shipment at any place in British India.

Power to send officers of customs on board vessel clearing.

120. It shall be competent to the officer in charge of the custom-house at any port in British India at any time to send at his discretion one or more officers of customs on board of any vessel clearing from such port.

Every officer of customs so sent shall remain on board of such vessel by day and by night, until it shall be otherwise ordered by the officer in charge of the custom-house.

And to allow shipment without presence of officer.

Provided that it shall be competent to the officer in charge of the custom-house to direct, whenever he may see fit so to do, and on such conditions as he may see fit to impose, that the shipment of cargo may take place without the presence of an officer of customs.

Penalty for refusal to receive on board deputed customs-officer.

121. Every master or commander of a vessel who shall refuse to receive on board an officer of customs deputed as above provided, shall be liable to a penalty not exceeding five hundred rupees for each day during which such officer shall not be received on board; and the vessel shall not be allowed to take in cargo until the penalty is paid.

One servant to be received on board with

122. Every master or commander of a vessel, who is bound to receive on board an officer of customs under section 120 of this Act, shall also be bound

to receive on board one servant of such officer, and to provide such officer and servant with suitable shelter and accommodation, and likewise with a due allowance of fresh water and with the means of cooking on board.

each officer.

Accommodation of officer, &c.

If any master or commander shall wilfully disobey the directions contained in this section, he shall in every such case be liable to a penalty not exceeding five hundred rupees.

Penalty.

123. No goods shall be shipped or water-borne to be shipped for exportation, until the exporter or his agent shall have filled in and delivered to the officer in charge of the custom-house, or other proper officer, a shipping-bill of such goods in the form marked F appended to this Act, or in such other form as may from time to time be prescribed by the Chief Customs Authority of the presidency or place.

Exporter to deliver shipping-bill before shipping goods.

124. Before any warehoused goods, or goods subject to duties of excise, or goods entitled to drawback of customs on exportation, or goods exportable only under particular rules or restrictions, shall be permitted to be exported, the exporter or his agent shall, if required so to do, give security by bond in such sum, not exceeding twice the duty leviable on such goods, as the officer in charge of the custom-house shall direct, with one sufficient surety, that such goods shall be duly shipped, exported and landed at the place for which they are entered outwards, or shall be otherwise accounted for to the satisfaction of such officer.

On entry outwards, bond-note to be given for shipping and landing.

125. When any goods shall be sent for the purpose of being shipped for exportation on board of any vessel, there shall be sent with each boat-load or other separate despatch a boat-note specifying the number of packages so sent and the marks and numbers or other description thereof.

Boat-note.

Each boat-note shall be signed by the proper officer of customs, and shall be delivered to the officer of customs who is on board of the vessel on which such goods are to be shipped, if any such officer be on board.

Signature and delivery.

If no such officer be on board, every such boat-note shall be delivered to the master or commander of the vessel, or to an officer of the vessel appointed by such master or commander to receive it.

Delivery to master.

If any person so receiving any such boat-note shall fail to deliver it, when required so to do by any officer of customs authorized to make such requisition, such person shall be liable to a penalty not exceeding five hundred rupees.

Penalty for non-delivery of boat-note.

126. No vessel, whether laden, partially laden, or in ballast, shall depart from any port in British India until a port-clearance shall have been granted by the officer in charge of the custom-house or other officer duly authorized to grant the same.

No vessel to depart without port-clearance.

Every application for port-clearance shall be made by the master or commander at least twenty-four hours before the intended departure of the vessel;

Application for same.

and every master or commander of a vessel so applying for port-clearance shall answer to the proper officer of customs such questions touching her departure and destination as shall be demanded of him.

Penalties.

If any master or commander of a vessel shall attempt to depart without a port-clearance, such master or commander shall be liable to a penalty not exceeding five hundred rupees.

If any vessel shall actually depart without a port-clearance, the master or commander shall be liable to a penalty not exceeding one thousand rupees; and such penalty may be levied by the chief officer of customs of any port in British India to which such vessel shall proceed, or in which she shall be.

Proof of departure without port-clearance.

A certificate of departure without port-clearance, purporting to be signed by the chief officer of customs of the port from which any vessel is stated to have so departed, shall be sufficient *primâ facie* proof of the fact so certified.

No pilot to take charge of out-going vessel without port-clearance.

127. Except when duly appointed by the master-attendant at any port, or by some other officer duly empowered in that behalf by the Local Government, no pilot shall take charge of any vessel proceeding to sea, unless the master or commander of such vessel shall produce a port-clearance.

Penalty.

Every person convicted before a Magistrate of an infraction of this rule, shall be liable to a penalty not exceeding one thousand rupees.

Master on applying for port-clearance, to deliver manifest and certificates.

128. The master or commander of every vessel intending to leave any port in British India shall, at the time of applying for port-clearance, deliver to the officer in charge of the custom-house, or other duly authorized officer, a manifest in duplicate according to such form as may from time to time be prescribed by the Chief Customs Authority of the presidency or place, containing a full and true specification of all goods to be exported in the vessel; and shall also deliver to the officer in charge of the custom-house, or other duly authorized officer, such certificates as the officer in charge of the custom-house, acting under the general instructions of such Chief Customs Authority, shall require.

Issue of port-clearance.

The officer in charge of the custom-house, or other duly authorized officer, when satisfied with the said certificates, and as to the correctness of the manifest, shall grant a port-clearance to the master or commander, and shall return at the same time to such master or commander one copy of the manifest duly countersigned by the proper officer of customs.

Port-clearance may be refused unless all documents delivered and charges paid.

129. It shall be competent to the officer in charge of the custom-house to refuse port-clearance to any vessel until the required manifest and certificates are produced, and until all port-dues and other charges and penalties due by such vessel, or by the master or commander thereof, are duly paid or their

payment secured by such guarantee, or by a deposit at such rate, as the officer in charge of the custom-house shall direct.

130. If any goods liable to duty on importation, or taken from a warehouse to be exported, or entitled to drawback on exportation, which are enumerated in the manifest of any vessel, shall not be duly shipped before the departure of such vessel, or shall not be duly certified by the proper officer as short-shipped, such goods shall be liable to confiscation.

Certain goods, if entered in manifest and not shipped, liable to confiscation.

If any goods not enumerated in such manifest shall be taken on board of any such vessel, the master or commander shall be liable to a penalty not exceeding fifty rupees in respect of every package of such goods.

Penalty for shipment of goods not in manifest, &c.

If any goods duly shipped on board of any such vessel be landed at any place other than that for which they shall have been so cleared, the master or commander of such vessel shall, unless the circumstance be accounted for to the satisfaction of the officer in charge of the custom-house, be liable to a penalty not exceeding three times the value of such goods so landed.

And for landing at other than declared place.

131. When goods are passed through the custom-house for shipment on an application presented after port-clearance shall have been granted, two per cent. upon the market-value of any such goods not liable to duty, or liable to specific duties according to weight or quantity only, or to duty according to value, and upon the tariff-value of goods so passed, which are liable to duties on fixed tariff-valuations, shall in every case be levied in addition to any duty to which such goods shall be ordinarily liable.

Additional charge on goods passed for shipment after port-clearance granted.

Provided that nothing in this section shall be deemed to apply to any shipment of treasure or opium.

Exception of treasure and opium.

132. Upon an application being made to the officer in charge of the custom-house, the duty levied upon goods not shipped, or upon goods shipped and afterwards relanded, shall be returned to the person on whose behalf such duty was paid.

Duty on goods not shipped or relanded returnable on application.

Provided that no such refund shall be allowed unless application to reland shall have been made, or notice of non-shipment shall have been given, within three clear working days after the vessel on which such goods were intended to be shipped, or from which they were relanded, shall have left the port.[a]

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133. It shall be lawful for the Chief Customs Authority of any presidency or place to appoint, for any port within such presidency or place, stations at which any vessel departing from such port may be required to bring to for the landing from such vessel of officers of customs, or for further examination previous to such departure.

Stations for out-going vessels to bring to, to land customs-officers.

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[a] See Act No. X of 1868, section 1.

Penalty for not bringing to at prescribed station.

134. If the master or commander of any vessel departing from any port in British India shall, when so required, fail to bring to at any station that shall have been appointed by the Chief Customs Authority of any presidency or place under the last preceding section, such master or commander shall, in every such case, be liable to a penalty not exceeding one thousand rupees.

Levy of penalty.

If any vessel shall actually depart after failing to bring to when required, at any station appointed under the last preceding section, the penalty leviable under this section from the master or commander of such vessel may be levied by the chief officer of customs of any port in British India to which such vessel shall proceed, or in which she shall be.

Proof of failure to bring to.

A certificate of such failure to bring to when required, purporting to be signed by the chief officer of customs of the port from which the vessel is stated to have so departed, shall be sufficient *primâ facie* proof of the fact so certified.

Goods relanded from vessel returning to port or putting into other port, how dealt with.

135. If any vessel, after having cleared from any port in British India, shall, without having discharged her cargo, return to such port, or put into any other port in British India not being a free port, any owner or shipper of cargo in such vessel, or the agent of any such owner or shipper, if he shall desire to land the same or any portion thereof for re-export, may make application to the officer in charge of the custom-house; who, if he grant such application, shall thereupon send an officer of customs to watch the vessel, and to take charge of the cargo during such relanding or removal from on board.

Goods on board of such vessel shall not be allowed to be trans-shipped or re-exported free of duty, by reason of the previous settlement of duty at the time of first export, unless such goods shall be lodged and shall remain, under charge of an officer of customs, in a place appointed by the officer in charge of the custom-house, until the time of re-export.

All charges attending such custody shall be borne by the exporter.

Vessel returning to port may enter and land goods under import-rules.

136. In any case of the return of any vessel to port, after port-clearance, it shall be lawful for the master or commander of such vessel, or for any owner or shipper of cargo therein, to enter such vessel and to land such cargo under the rules for the importation of goods.

Refund of duty and recovery of drawback.

In every such case the export-duty shall be refunded to, and the amount paid in drawback shall be reclaimed from, such owner or shipper;

Penalty for deficiency.

and if any goods, on account of which drawback has been paid, be not found on board of any such vessel, the master or commander shall be liable to a penalty not exceeding the entire value thereof, unless the fact be accounted for to the satisfaction of the officer in charge of the custom-house.

DRAWBACK.

137. Upon the re-export by sea, to any foreign port or place, of any goods, except salt or opium, imported by sea into British India from any foreign port or place, and upon which duties of customs have been paid on importation, seven-eighths of such duty shall be repaid as drawback, and one-eighth shall be retained as reserved duty. Amount of drawback allowable on re-export.

Provided that in every such case the goods be identified to the satisfaction of the officer in charge of the custom-house; and that the re-export be made within two years from the date of importation as shown by the custom-house-register, or within such extended term as the Chief Customs Authority of the presidency or place shall, on sufficient cause for such extension being shown, in any case determine. Conditions for grant of drawback.

No re-payment shall be made under this section on account of any article entered in the export-manifest of the vessel as ship's stores. Ship's stores.

Articles on which, though they be not country-articles, an export-duty is chargeable by law, shall not, on re-exportation, be entitled to claim exemption from such export-duty by reason of their having paid duty on importation. Foreign articles liable to export-duty.

But it shall be lawful for the said Chief Customs Authority in any such case to direct that no reservation of any part of the import-duty be made on the re-exportation of such articles. Power to remit reserved duty.

138. No payment of drawback shall be made upon any goods re-exported from any port in British India, unless the claim to receive such drawback be made and established at the time of re-export, nor unless payment be demanded within one year from the date of entry for shipment. Time to claim and demand payment of drawback.

No such payment of drawback shall be made until the vessel carrying the goods has put out to sea. Drawback when payable.

139. No drawback shall be allowed upon the exportation of any goods entered for drawback, which shall be of less value than the amount of the drawback claimed. No drawback on goods of value less than sum claimed.

All such goods so entered shall be liable to confiscation.

140. No drawback shall be allowed upon goods not included in the export-manifest. Nor on goods not in manifest.

141. No drawback shall be allowed upon goods exported from one port in British India to another such port not being a free port. But drawback may be allowed upon goods which, after having been charged with duty at one port in British India, and thence exported to another such port not being a free port, are thence again re-exported by sea to a foreign port or place. No drawback allowed except on goods exported out of India.

Provided that in every such case the goods be identified to the satisfaction of the officer in charge of the custom-house at the port of final exportation, Proviso.

and that such final exportation be made within three years from the date of first importation into British India.

Declaration by parties claiming drawback.

142. Any person, or the duly authorized agent of any person, claiming drawback on any goods duly exported, shall make and subscribe a declaration that such goods have been actually exported, and have not been relanded, and are not intended to be relanded at any port in British India; and that such person was, at the time of entry and shipment, and continues to be, entitled to drawback thereon.

Drawback-goods, if not exported, or if relanded, liable to confiscation, and parties concerned to penalty.

143. If any goods on the entry of which for re-export drawback shall have been paid shall not be duly exported to a foreign port or place, or shall be unshipped or relanded at any port in British India (not having been duly relanded or discharged as short-shipped under the care of an officer of customs, or under section 135 or section 136 of this Act), such goods, together with any vessel used in so unshipping or relanding them, shall be liable to confiscation; and the master or commander of the vessel from which such goods shall be so unshipped or relanded, and any person by whom or by whose orders or means such goods shall be so unshipped or relanded, or who shall aid or be concerned in such unshipping or relanding, shall be liable to a penalty not exceeding three times the value of such goods, or not exceeding one thousand rupees.

Drawback on wine allowed for officers of Navy.

144. A drawback of the whole of the duties of customs shall be allowed for wine intended for the consumption of any officer of Her Majesty's Navy, on board of any of Her Majesty's ships in actual service, unless such wine shall have been warehoused without payment of duty on the first entry thereof.

The quantity of wine on which drawback may be so allowed in any one year for the use of any such officer shall not exceed the proportions specified below; that is to say:—

	Gallons.
For every admiral	1,260
Vice-admiral	1,050
Rear-admiral	840
Captain of 1st and 2nd rate	630
Captain of 3rd, 4th and 5th rate	420
Captain of an inferior rate	210
Lieutenant or other commanding officer, and for every marine-officer, master, purser or surgeon ...	105[a]

[a] 16 & 17 Vic., c. 107, sec. 134.

145. Every person clearing and claiming drawback for wine as provided in the last preceding section, shall state in the entry the name of the officer for whose use such wine is intended, and of the ship in which he serves, as well as the place and date of the last supply for which drawback was allowed.

Statement by persons claiming drawback.

All such wine shall be delivered into the charge of the proper officers of customs at the port of shipment, to be shipped under their care; and when the officer commanding the ship shall have certified the receipt of such wine into his charge, and the proper officer of customs shall have certified the shipment, the drawback shall be paid to the person entitled to receive the same.

Shipment of wine, and payment of drawback.

146. The officer in charge of the custom-house may permit the transfer of any such wine from one naval officer to another naval officer, on board of the same or of any other such ship, as part of his authorized proportion; or may permit the trans-shipment of any such wine from one ship to another for the use of the same naval officer; or the relanding and warehousing of any such wine for future re-shipment.

Transfer of wine from one officer or ship to another, &c.

The officer in charge of the custom-house may also receive back the duties for any such wine, and allow the same to be cleared for home-consumption.[b]

Power to pass for home-consumption.

147. If any such wine be not laden on board of the ship for which it was intended, or be unladen from such ship without the permission of the proper officer of customs, such wine shall be liable to confiscation.[c]

Wine not laden, or unladen without leave, liable to confiscation.

148. Provisions and stores for the use of Her Majesty's Navy shall in like manner be passed free of duty; and where duties shall have been paid on such provisions and stores, drawback of such duties, whether of customs or excise, shall be allowed on receipt of application in writing from the officer commanding the ship for which they are intended, or from some other officer duly authorized to make such application.

Provisions and stores for Her Majesty's Navy exempt from duty.

Coasting Trade.

149. No duties of customs shall be levied on any goods lawfully carried in any coasting-vessel.

No duties on goods carried in coasting vessel.

Provided that nothing in this section shall apply to

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opium, salt or spirits manufactured after the English method; or to

goods brought from any foreign port or place to any port in British India, and there transshipped for, or thence carried to, any other port in British India without payment of duty; or to

goods removed in bond.

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[a] 16 & 17 Vic., c. 107, sec. 135.
[b] 16 & 17 Vic., c. 105, s. 136.
[c] 16 & 17 Vic., c. 105, s. 139 last sentence.

No drawback for goods shipped in coasting-vessel.

150. No drawback shall be allowed for any goods shipped in any coasting-vessel; but this shall not interfere with the allowance of drawback for goods duly manifested and exported by sea to any foreign port or place in any Native vessel other than a coasting-vessel.

Local Government may regulate carriage of goods coastwise.

151. The Local Government, acting under the general instructions of the Government of India, may from time to time determine, by rules to be published in the official Gazette, on what conditions, and on what conditions only, goods may be carried coastwise, though not shipped at any port in British India to be so carried; also in what cases, and in what cases only, goods may be shipped in a vessel to be carried coastwise, before all goods brought in such vessel from a foreign port or place shall have been unladen.

Penalty for contravention of rules.

If, in contravention of any such rules so published,

any goods shall be taken into or put out of any coasting-vessel; or

any coasting-vessel shall touch at any foreign port or place, or deviate from her voyage, unless forced by unavoidable circumstances; or

if the master or commander of any coasting-vessel which shall have touched at a foreign port or place shall fail to declare the same in writing to the officer in charge of the custom-house at the port in British India at which such vessel shall afterwards first arrive,

the master or commander of such vessel shall be liable to a penalty not exceeding one thousand rupees, and shall further be liable to pay double duty upon all goods landed or shipped at such foreign port or place, in addition to the ordinary duty which shall in every case be levied on such goods.

Times and places for shipping goods.

152. Except with the written permission of the officer in charge of the custom-house, no goods, with the exception of passengers'-baggage, shall, on any Sunday or on any holiday or day on which the shipping or landing of cargo is or shall be prohibited by the Chief Customs Authority of the presidency or place, be unshipped from any vessel arriving coastwise, or be shipped, or water-borne to be shipped, for carriage coastwise, at any port in British India; nor, except with such written permission, shall any goods be so unshipped, or shipped, or water-borne to be shipped, on any day except between such hours as the Chief Customs Authority shall from time to time appoint by notice in the official Gazette; nor from any place in any such port except a wharf duly appointed for such purpose; nor without the presence or authority of the proper officer of customs.

Penalty for contravention.

Any person who shall cause or suffer any goods to be unshipped, shipped, or water-borne to be shipped, contrary to any of the provisions of this section, shall in every such case be liable to a penalty not exceeding five hundred rupees;

and any goods so unauthorizedly unshipped, shipped, or removed for shipment, shall be liable to confiscation.

153. The master or commander of every coasting-vessel shall keep, or cause to be kept, a cargo-book in which shall be stated the name of the master or commander, the vessel, the port to which she belongs, and the port to which on each voyage she is bound.

Cargo-book to be kept by master.

At every port of lading such master or commander shall enter, or cause to be entered, in such book the name of such port, and an account of all goods there taken on board of such vessel, with a description of the packages, and the quantities and descriptions of the goods contained therein, or stowed loose, and the names of the respective shippers and consignees, in so far as such particulars are known to him.

Entries at lading-ports.

At every port of discharge of any such goods, such master or commander shall enter, or cause to be entered, in such book the respective days on which such goods or any of them are delivered out of such vessel.

Entries at discharge-ports.

The respective times of departure from every port of lading, and of arrival at every port of discharge, shall in like manner be duly entered.

Times of arrival and departure.

Every such master or commander shall, on demand, produce his cargo-book for the inspection of any officer of customs, and such officer shall be at liberty to make any note or remark therein; and if, upon examination, any package entered in the cargo-book as containing foreign goods, shall be found not to contain such goods, such package, with its contents, shall be liable to confiscation; or if any package shall be found to contain foreign goods not entered, or not entered as such, in such book, such goods shall be liable to confiscation.

Production of book.

Goods liable to confiscation.

If any such master or commander shall fail correctly to keep such cargo-book, or to produce the same on demand; or if at any time there be found on board of any such vessel any goods not entered in such book as laden, or any goods noted as delivered; or if any goods entered as laden and not noted as delivered, be not on board, the master or commander of such vessel shall be liable to a penalty not exceeding five hundred rupees.

Penalty for breach of rules.

154. Before any coasting-vessel shall depart from the port of lading, an account, with a duplicate thereof in the form marked G appended to this Act, or in such other form as may from time to time be prescribed by the Chief Customs Authority of the presidency or place, shall be filled in and signed by the master or commander and delivered to the officer in charge of the custom-house.

Coasting-vessels to deliver account and obtain port-clearance before leaving port of lading.

Such officer shall retain the duplicate and return the original account dated and signed by him; and such account shall be the clearance of the vessel for the voyage and the pass for the goods expressed therein.

Penalty if account false.

If any such account be false, the master or commander shall be liable to a penalty not exceeding five hundred rupees.

Officer in charge of custom-house may require bond before granting port-clearance.

155. The officer in charge of the custom-house may, on good and sufficient reason, refuse port-clearance to any vessel declared to be bound to any port in British India, unless the owner, agent, master or commander shall give a bond with sufficient security for the production to the officer in charge of the custom-house of a certificate from an officer of the port to which such vessel is said to be bound, of her arrival at such port within a fair and reasonable time, to be prescribed in each case by the officer requiring the bond.

Penalty for failure to produce certificate.

On failure to produce such certificate, or to show sufficient reason for its non-production, the parties to the bond shall be bound to pay a penal sum equal to double the amount of customs-duties which would have been chargeable on the export-cargo of the vessel had she been declared to be bound to a foreign port.

Grant of general pass.

156. The Chief Customs Authority of any presidency or place may, on cause being shown, permit a general pass to be given, on any conditions which may be deemed expedient, for the lading and clearance, and for the entry and unlading, of any coasting steam-vessel at any ports of despatch or destination, or at any intermediate ports at which she may touch for the purpose of receiving goods or passengers.

Revocation.

Any such general pass may be revoked by notice in writing under the hand of the proper officer, delivered to the master or commander, or to the owner, of such steam-vessel, or to any of the crew on board.

Time for delivery of pass.

157. Within twenty-four hours after the arrival of any coasting-vessel at the port of discharge, and before any goods are unladen therefrom, the pass with the name of the place or wharf where the cargo is to be discharged noted thereon, shall be delivered to an officer of the port, who shall note thereon the date of delivery.

Penalty for failure.

Any master or commander who shall fail so to deliver a pass within twenty-four hours after arrival, shall be liable to a penalty not exceeding two hundred rupees.

Unlading excisable goods on coasting-vessel.

158. If any of the goods on board of any coasting-vessel be subject to any duty of excise, such goods shall not be unladen without the permission of the proper officer of excise.

Penalty for breach in respect of lading, carrying coastwise, and unlading.

159. If, contrary to the provisions of this or any other Act relating to the customs, any goods shall be laden on board of any vessel in any port or place in British India and carried coastwise, or any goods which have been brought coastwise shall be unladen in any such port or place, or any goods shall be found on board of any coasting-vessel without being entered in the clearance thereof such goods shall be liable to confiscation, and the master or

commander of such vessel shall, in every such case, be liable to a penalty not exceeding five hundred rupees.

160. Any duly empowered officer of customs may go on board of any coasting-vessel in any port or place in British India, and may at any period of a voyage search any such vessel and examine all goods on board and all goods then lading or unlading, and may demand the production of any document which ought to be on board of any such vessel.

Customs-officer may board and search coasting-vessel, demand production of document,

The officer in charge of the custom-house may further require that any such document belonging to any coasting-vessel then in port shall be brought to him for inspection.

and conveyance to him for inspection.

If the master or commander of any such vessel shall refuse to bring any such document to the officer in charge of the custom-house when so required, such master or commander shall be liable to a penalty not exceeding two hundred rupees.

Penalty for refusal to produce documents.

CARGO-BOATS.

161. It shall be lawful for the Local Government of any presidency or place to declare with regard to any port within its jurisdiction, by notification in the official Gazette, that after a stated date no boat which shall not have been duly licensed and registered will be allowed to ply as a cargo-boat for the landing and shipping of merchandise within the limits of such port.

Local Government may prohibit plying of unlicensed cargo-boats.

After the issue of such notification with regard to any port, any goods found within the limits of such port on board of any boat not duly licensed and registered shall, unless such goods be covered by a special permit from the officer in charge of the custom-house, be liable to confiscation.

Goods in unlicensed cargo-boats may be confiscated.

162. It shall be lawful for the chief officer of customs of any port[a] with regard to which a notification shall have been issued under the last preceding section, to issue licenses for, and to make registration of, cargo-boats, under such rules and on payment of such fees as the Local Government shall from time to time prescribe.

Licensing and registration of cargo-boats.

Any table of fees prescribed under this section shall be published in the official Gazette.

Publication of fees.

SPIRITS.

163. It shall be lawful for the Chief Customs Authority of any presidency or place to prescribe from time to time the conditions on which and the rules under which spirits manufactured in British India after the English method may be removed from any licensed distillery for exportation without payment of duty of excise.

Rules for removal of spirits from distillery without payment of duty for exportation.

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[a] See, as to Rangoon, Maulmain and Akyab, *British Burma Gazette*, 21st June 1873, p. 132.

Bond by remover.

The person so removing any such spirits shall execute to the Government a bond with one or more sureties, in the form marked H annexed to this Act, or in such other form as the said Chief Customs Authority shall from time to time prescribe, for the payment of duty on such portion of the said spirits as shall not be exported within four months from the date of the bond, and upon any portion which shall be exported to any other port in British India not being a free port, but proof of the landing whereof and of payment of duty of customs whereon at the port of destination shall not be furnished to the satisfaction of the proper officer within six months from the date of the bond.

Extension of time allowed for export.

It shall be lawful for the chief officer of customs of the port of exportation to extend for a further term not exceeding four months, on sufficient cause shown, the period allowed for the exportation of any such spirits, or for the production of such proof that duty has been paid.

Removal of spirits to custom-house.

164. Spirits for exportation under bond for the duty of excise shall be taken from the distillery direct to the custom-house under passes to be granted for that purpose by the officers of excise.

Gauge and proof.

165. Spirits brought to the custom-house for exportation by sea shall, previous to shipment, be gauged and proved by an officer of customs.

Drawback on duty-paid spirits.

Any drawback to be allowed for spirits on which duty has been paid shall be regulated by the strength and quantity of such spirits as ascertained by such proof and gauge; and the quantity of spirits for which credit is to be given in the settlement of any bond shall be determined in the same manner.

Duty recoverable on deficiency in spirits under bond.

166. Duty shall be recoverable upon any difference between the quantity of spirits passed from a distillery and the quantity ascertained by gauge and proof at the custom-house, less an allowance for ullage and wastage at such rates as shall from time to time be prescribed by the Local Government and notified in the official Gazette.

Drawback of excise-duty on spirits manufactured after English method.

167. A drawback of duty of excise paid on spirits manufactured in British India after the English method, and exported to any foreign port or place under the provisions of section 124 of this Act, shall be allowed by the officer in charge of the custom-house at the port of exportation.

Time allowed for export.

Provided that the exportation be made within one year from the date of payment of such duty of excise, and that the spirits, when brought to the custom-house, are accompanied by the pass in which such payment is certified.

No drawback on spirits exported to Indian ports not free, but such

168. No drawback shall be allowed on spirits exported from any port in British India to any other port in British India not being a free port. But it shall be lawful, on the conditions and under the rules prescribed from time to time under section 163 of this Act, to export from any such port to any other

such port, under bond for the duty of excise, spirits manufactured in British India after the English method.

Spirits may be exported under bond.

Every such bond shall be cancelled on the production, by the exporter or his agent, of a certificate from the officer in charge of the custom-house at the port of importation, testifying to the due entry at such port of the full quantity of such spirits so exported, less an allowance for ullage and wastage at such rates as shall from time to time be prescribed by the Local Government and notified in the official Gazette.

When bond to be cancelled.

169. Spirits manufactured in British India after the English method, and exported under bond for the duty of excise from any port in British India to any other port in British India not being a free port, shall be chargeable at the port of destination with duties of customs at the ordinary rate fixed for duties on spirits of the like kind and strength imported into such port.

Duty on spirits exported from one Indian port to another.

170. Any rum-shrub, cordial, and other such liquor prepared in a licensed distillery under supervision of the surveyor or officer in charge of the distillery, shall be charged with duty according to the quantity of spirit used in its preparation as ascertained by such surveyor or officer.

Rum-shrub, &c., how charged with duty.

The provisions of this Act respecting spirits manufactured after the English method, except such as relate to gauge and proof, shall apply to such liquor.

Provisions applied thereto.

When any such liquor is removed for exportation without payment of duty of excise, the bond to be executed by the person removing it shall be in the form marked H annexed to this Act, or in such other form as may from time to time be prescribed by the Chief Customs Authority of the presidency or place.

Bond by remover.

171. Spirits brought to the custom-house for exportation under bond for the duty of excise may, on payment of such duty, be removed for local consumption under passes to be granted for that purpose by the officers of excise. Credit for every such payment shall be given on settlement of the bond to which it relates.

Spirits intended for exportation may be removed for local consumption.

172. No drawback shall be allowed for any spirits on which duty has been paid, nor shall the duty due on any spirits under bond be remitted, unless the spirits shall be shipped from the custom-house, and in a vessel whereon an officer of customs has been appointed to superintend the receipt of export-cargo.

Conditions of drawback and remission of duty on spirits.

Spirits shipped for exportation shall not be relanded without a special pass from an officer of excise in addition to the usual order of the officer in charge of the custom-house.

Reland of spirits shipped.

173. Every person who, without a special pass from an officer of excise at the place of exportation, relands or attempts to reland any spirituous

Penalty for irregularly relanding

spirituous liquors.

liquor shipped for exportation, shall for every such offence be liable to a penalty not exceeding five hundred rupees;

and all such liquor, together with every cask or other article containing the same, and every boat, cart or animal employed in conveying it, shall be liable to confiscation.

AGENTS.

Agents to be authorized.

174. No person shall act in any custom-house as an agent for the transaction of any business relating to the entrance or clearance of any vessel, goods or baggage, unless authorized so to do by the officer in charge of the custom-house.

Bond may be required.

It shall be lawful for such officer to require any person so authorized, to give a bond with sufficient securities, in any sum not exceeding five thousand rupees, for the faithful behaviour of such person as regards the custom-house regulations and officers.

Penalty for acting without authority.

Every person who, not being so authorized, shall act as an agent, shall for every such offence be liable to a penalty not exceeding five hundred rupees.

Agent to produce authority if required.

175. When any person shall make application to any officer of customs to transact any business on behalf of any other person, such officer may require the person so applying to produce a written authority from the person on whose behalf such business is to be transacted, and in default of the production of such authority may refuse to transact such business.

When clerk, servant or known agent may act.

The clerk or servant, or known agent, of any person or of any mercantile firm may transact business at the custom-house on account of such person or firm, if such person or a member of such firm shall identify to the officer in charge of the custom-house the person so empowered to transact his or their business, and shall deposit with such officer a written authority duly signed, empowering such officer to pay to such person all drawbacks, refunds and other monies for which he shall produce receipts.

DUPLICATE BILLS OF ENTRY, &c.

Importer, &c., to deliver duplicate of bill of entry, or shipping-bill, if required.

176. Upon the entry or clearance of any goods, for importation or exportation, the importer, exporter, owner or consignee, or the agent of such importer, exporter, owner or consignee, shall, if the officer in charge of the custom-house so require, deliver to such officer a duplicate of the bill of entry or shipping bill thereof. In such duplicate all sums and numbers may be expressed in figures.

Penalty for non-compliance.

177. Every importer, exporter, owner or consignee, and every agent of any such importer, exporter, owner or consignee, who shall wilfully fail to comply with the provisions of the last preceding section, shall be liable to a penalty not exceeding two hundred rupees.

TAKING OF SAMPLES.

178. An officer in charge of a custom-house may, on the entry or clearance of any goods, or at any time while such goods are being passed through the custom-house, take samples of such goods for examination, or for ascertaining the value thereof on which duties are payable, or for any other necessary purpose.

Officer in charge of custom-house may take samples of goods.

Every such sample shall, if the owner so desire, and if it be possible, be restored to the owner; otherwise it shall be disposed of and accounted for to the owner as the officer in charge of the custom-house shall direct.

Return to owner, or disposal on his account.

MISCELLANEOUS PROVISIONS.

179. [*Repealed by Act No. XVII of* 1867.]

180. In all cases in which goods are liable to duty according to the value thereof, and in which no value shall have been fixed by a general tariff or under the Indian Tariff Act, 1875,[a] the value shall be assessed at the wholesale cash-price, less trade-discount, for which goods of the like kind and quality are sold, or are capable of being sold, at the time and place of importation or exportation respectively, without any abatement or deduction whatever, except of so much as the duties payable on the importation thereof shall amount to.

Assessment of goods liable to duty according to value.

181. Any person entering any timber or wood chargeable with duty by measurement, shall, at his own expense, pile, sort, frame or otherwise place the same in such manner as the officer in charge of the custom-house shall deem necessary to enable the officers of customs to measure and take account thereof.

Expense of piling, &c., timber chargeable by measurement, by whom borne.

In all cases in which timber or wood is measured in bulk, the measurement shall be taken to the full extent of the pile, and no allowance shall be made by the officers on account of interstices.

No allowance for interstices.

182. If two or more vessels belonging to the same owner be at any port in British India at the same time, any articles of marine stores in use or ordinarily shipped for use on board may, at the discretion of the officer in charge of the custom-house, be transshipped from one such vessel to any other such vessel without payment of import-duty.

Transshipment of stores from one vessel to another of same owner.

183. Provisions and other such ship's stores warehoused at the time of importation, may be exported without payment of duty for use and consumption on board of any vessel proceeding to a foreign port or place.

Export of provisions, stores, &c., for consumption on vessels proceeding to foreign ports.

Articles of Indian produce or manufacture, including rum, required for use on board of any vessel proceeding to any foreign port or place, may also be exported free of duty, whether of customs or excise, in such quantities as the

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[a] See Act No XVI of 1875, sec. 12.

officer in charge of the custom-house shall determine, with reference to the tonnage of the vessel, the numbers of the crew and passengers, and the length of the voyage on which the vessel is about to depart.

Proviso as to rum.

Provided that no such rum shall be shipped as stores free of duty on any vessel not going to a foreign port or place, or going on a voyage of less than thirty days' probable duration.

In case of dispute duty to be deposited pending orders of Chief Customs Authority.

184. If any dispute shall arise as to the proper rate of duty payable in respect of any goods imported into, or exported from, any port in British India, the importer, exporter, owner or consignee of such goods, or his agent, shall deposit in the hands of the officer in charge of the custom-house at the port of importation or exportation respectively, the amount of duty demanded by such officer, pending the decision of the Chief Customs Authority.

Goods when deliverable to owner.

Upon payment of such deposit and compliance with the provisions of this Act relating to the entry of such goods, the officer in charge of the custom-house shall cause the goods to be delivered to such importer, exporter, owner or consignee, or his agent.

Payment of duties short-levied or erroneously refunded.

185. When duty or other customs-dues or charges have been short-levied through inadvertence, error or misconstruction on the part of the officers of customs; or when duty, after having been levied, has been erroneously refunded, the person chargeable with the duty or charge so short-levied, or to whom such refund has erroneously been made, shall pay the deficiency or repay the amount paid to him in excess, on demand being made within six months from the date of the first assessment, or making of the refund;

Detention of goods until payment.

and it shall be lawful for the officers of customs to refuse to pass any goods belonging to such person until the said deficiency or excess be paid or repaid.

No refund of charges erroneously levied or paid, unless application made within six months.

186. No duty or other customs-dues or charges which shall have been charged and paid, and of which, or of a portion of which, repayment is claimed in consequence of the same having been charged or paid under an erroneous construction of law or from other error, shall be returned, unless such claim is made within six months from the date of such payment.

Importer or exporter to pay expense incidental to compliance with custom-house-rules.

187. The unshipping, carrying, shipping and landing of all goods, and the bringing of them to the proper place for examination or weighing, and the putting of them into and out of the scales; and the opening, unpacking, bulking, sorting, lotting, marking and numbering of goods, where such operations are necessary or permitted, and the removing of goods to, and the placing of them in, the proper place of deposit, shall be performed by or at the expense of the importer, exporter, owner or consignee of such goods.

No compensation for loss or injury ex-

188. No importer, exporter, owner or consignee of goods shall be entitled to claim from any officer of customs compensation for any loss or injury that

may occur to such goods at any time while they remain or are lawfully detained in any custom-house, or on any custom-house-wharf, or under charge of any officer of customs, unless it shall be proved that such loss or injury was occasioned by the wilful act or neglect of an officer of customs.

cept on proof of wilful neglect.

189. The Chief Customs Authority of any presidency or place may from time to time fix the rate to be charged on goods left on any custom-house-wharf or other authorized landing-place, or part of the custom-house-premises, for a period exceeding that prescribed by such Chief Customs Authority.

Rates of wharfage-fees to be fixed by Chief Customs Authority.

190. Nothing contained in this Act shall be construed to prevent the levy of any anchorage or harbour-dues now leviable at any port in British India, or the levy of any special duties on opium, tobacco, gánja, spirits or salt, under any law which is or shall be in force in any part of British India.

Saving of anchorage and harbour-dues, also special dues on drugs and salt.

191. A duplicate of any certificate, manifest, bill or other custom-house-document may, on payment of a fee of not less than one rupee and not more than ten rupees, be furnished, at the discretion of the officer in charge of the custom-house, if he is satisfied that no fraud has been committed or is intended.

Grant of duplicates.

The officer in charge of the custom-house may also authorize any amendment to be made in any document, after it has been entered and recorded in the custom-house, upon payment of a like fee for every document so amended.

Amendment of documents.

192. No commissioner or collector of customs, or officer of customs whom a commissioner or collector of customs shall deem it necessary to exempt on grounds of public duty, shall be compelled to serve on any jury or inquest.

Customs-officers exempted from service on jury or inquest.

Offences and Penalties.

193. If any goods be put on board of any tug-steamer or pilot-vessel from any sea-going vessel inward-bound, or if any goods be put out of any tug-steamer or pilot-vessel for the purpose of being put on board of any outward-bound vessel, or if any goods on which drawback shall have been granted shall be put on board of any tug-steamer or pilot-vessel for the purpose of being relanded without the authority of the officers of customs, such goods shall be liable to confiscation, and the master or commander of such tug-steamer or pilot-vessel shall, in every such case, be liable to a penalty not exceeding one thousand rupees.

Penalty for commanders of tug-steamers or pilot-vessels receiving or discharging goods without authority.

194. Any person shipping or landing goods, or aiding in the shipment or landing of goods, or knowingly keeping or concealing, or knowingly permitting or procuring to be kept or concealed, any goods shipped or landed or intended to be shipped or landed, contrary to the provisions of this Act;

Penalty for shipping, landing, concealing, &c., contrary to Act.

and any person who shall be found to have been on board of any vessel liable to confiscation under section 13 of this Act, while such vessel was within any

bay, river, creek or arm of the sea which had not then been declared to be, and was not then existing as, a port for the landing or shipment of goods,

shall be liable to a penalty not exceeding one thousand rupees.

Vessels in port with cargo and afterwards found in ballast, and cargo unaccounted for, liable to confiscation.

195. If any vessel which shall have been within the limits of any port in British India with cargo on board, be afterwards found in any port, bay, river, creek or arm of the sea in British India, light or in ballast, and if the master or commander be unable to give a due account of the port or place in British India where such vessel lawfully discharged her cargo, such vessel shall be liable to confiscation.

What included in confiscation of vessels and goods.

196. The confiscation of any vessel shall be deemed to include her tackle, apparel and furniture.

The confiscation of any goods shall be deemed to include any package in which they are found, and all the contents thereof.

Every boat, cart or other means of conveyance, and every horse or other animal, used in the removal of any goods liable to confiscation, shall in like manner be liable to confiscation.

Port-clearance may be refused, and goods detained, pending payment of fines incurred.

197. If any person in charge of or owning a vessel shall have become liable to any fine or penalty on account of any act or omission relating to the customs, the officer in charge of the custom-house may refuse port-clearance to such vessel until the fine or penalty be discharged.

If any person passing goods through the custom-house shall have become liable to any fine or penalty, the officer in charge of the custom-house may detain such goods until the fine or penalty be discharged.

Persons reasonably suspected may be detained.

198. Any person against whom a reasonable suspicion exists that he has been guilty of an offence under this or any other Act relating to the customs, may be detained by any officer of customs or other person duly employed for the prevention of smuggling.

Vessels, goods and persons may be seized or detained.

199. Any vessel or goods liable to confiscation may be seized, and any person liable to be detained under this or any other Act relating to the customs may be detained, in any place, either upon land or water, by any officer of customs or other person duly employed for the prevention of smuggling.

Vessels and goods seized how dealt with.

200. Every vessel, and all goods seized on the ground that they are liable to confiscation, shall, as soon as conveniently may be, be delivered into the care of the officer appointed to receive the same.

If there be no such officer at hand, all goods so seized shall be carried to and deposited at the custom-house nearest to the place of seizure.

If there be no custom-house within a convenient distance, such goods shall be deposited at the nearest office appointed by the Chief Customs Authority of the presidency or place for the deposit of goods so seized.

201. Every person detained on the ground that he has been guilty of an offence under this or any other Act relating to the customs, shall forthwith be taken before the nearest Magistrate or officer in charge of a custom-house.

Persons detained how dealt with.

202. When any person, detained on the ground that he has been guilty of an offence against this or any other Act relating to the customs, shall be taken before a Magistrate, such Magistrate may, if he see reasonable cause, order such person to be detained in gaol or in the custody of the Police for such time as shall be necessary to enable such Magistrate to communicate with the officers of customs.

Persons taken before Magistrate for offence under customs Acts may be detained.

Provided that any person so detained shall be liberated on giving recognizance or security to the satisfaction of the Magistrate to appear at such time and place as shall be appointed by such Magistrate for his appearance.

Release on recognizance.

203. If any person liable to be detained under this or any other Act relating to the customs, shall not be detained at the time of committing the offence for which he is so liable, or shall, after detention, make his escape, such person shall at any time afterwards be liable to be detained and taken before a Magistrate, to be dealt with as if he had been detained at the time of committing such offence.

Person not detained when offending, or afterwards escaping.

204. When any person employed on the crew of any of Her Majesty's ships shall be detained under this or any other Act relating to the customs, the detaining officer shall forthwith give notice thereof to the commanding officer of the ship, who shall thereupon place such person in security on board of such ship, until the detaining officer shall have obtained a warrant from a Magistrate for bringing up such person to be dealt with according to law.

Procedure in case of persons in Her Majesty's Navy, when detained.

A Magistrate shall duly grant a warrant upon complaint made to him by the detaining officer, stating the offence for which the person is detained.

205. When any vessel or goods shall be seized, or any person shall be detained, under this or any other Act relating to the customs, it shall be the duty of the officer or other person making such seizure or detention, on demand of the person in charge of the vessel or goods so seized, or of the person so detained, to give to such person a statement in writing of the reason for such seizure or detention.

When seizure made, or person detained, officer to give reason in writing.

206. When any goods liable to confiscation under this or any other Act relating to the customs, shall be seized by any Police-officer on suspicion that they had been stolen, it shall be lawful for such officer to carry such goods to any Police-station or Court at which a complaint or information connected with the stealing or receiving of such goods shall have been made, or an enquiry connected with such stealing or receiving shall be in progress, and there to detain such goods until the dismissal of such

Procedure in respect of goods seized on suspicion.

complaint or information, or the conclusion of such enquiry or of any trial thence resulting.

In every such case the Police-officer who seized the goods shall send written notice of their seizure and detention to the nearest custom-house; and immediately after the dismissal of the complaint or information, or the conclusion of the enquiry or trial, the said Police-officer shall cause such goods to be conveyed to and deposited at the nearest custom-house, to be there proceeded against according to law.

Penalty for neglect of Police-officer.

If any Police-officer whose duty it is, under this section, to send a written notice or cause goods to be conveyed to a custom-house, shall neglect so to do, such officer shall be liable to a penalty not exceeding one hundred rupees.

Officers of customs may search carts, &c., for goods on reasonable suspicion.

207. Any duly empowered officer of customs or other person duly employed for the prevention of smuggling, may search any cart or other means of conveyance for smuggled goods;

provided that such officer shall have reasonable ground to suppose that smuggled goods are contained therein.

Magistrate of District may issue search-warrant on application.

208. It shall be lawful for the Magistrate of a district or division of a district, on application by an officer in charge of a custom-house, stating his belief that dutiable or prohibited goods are secreted in any place in such district or division, to issue a warrant to search for such goods.

Execution and effect of warrant.

Such warrant shall be executed in the same way, and shall have the same effect, as a search-warrant issued under the Code of Criminal Procedure.

Power to search persons on reasonable suspicion.

209. Any officer of customs duly employed in the prevention of smuggling may search any person on board of any vessel or boat in any port in British India, or any person who shall have landed from any vessel or boat.

Provided that such officer shall have reasonable ground to suppose that such person has dutiable or prohibited goods secreted about his person.

Penalty for possession of smuggled goods.

If any person on board of any such vessel or boat, or who may have landed from any such vessel or boat, shall, upon being asked by any such officer whether he has dutiable or prohibited goods about his person or in his possession, affirm that he has not, and if any such goods shall, after such denial, be discovered to be, or to have been, upon the person or in the possession of such person, such goods shall be liable to confiscation, and such person shall be liable to a penalty not exceeding three times the value of such goods.

Procedure when person before search requires to be taken before Magistrate, &c.

210. When any officer of customs is about to search any person under the provisions of the last preceding section, such person may require the said officer to take him, previous to search, before the nearest Magistrate or officer in charge of a custom-house.

If such requisition be made, the officer of customs may detain the person making it until he can bring him before the nearest Magistrate or officer in charge of a custom-house.

The Magistrate or officer in charge of a custom-house before whom any person shall be so brought, shall, if he see no reasonable ground for search, forthwith discharge such person ; but if otherwise, shall direct that the search be made.

A female shall not be searched by any but a female.

Search of female.

211. If any officer of customs shall require any person to be searched, for dutiable or prohibited goods, without having reasonable ground to believe that he has such goods about his person, such officer shall be liable to a penalty not exceeding one hundred rupees.

Penalty for searching person on insufficient grounds.

212. If any officer of customs, or other person duly employed for the prevention of smuggling, shall be guilty of a wilful breach of the provisions of this or any other Act relating to the customs, such officer or person shall on conviction before a Magistrate be liable to simple imprisonment for any term not exceeding two years, or to fine, or to both.

Customs-officers, if guilty of breach of duty, how punishable.

213. If any officer of customs, or other person duly employed for the prevention of smuggling, shall practise or attempt to practise any fraud for the purpose of injuring the customs-revenue, or shall abet or connive at any such fraud or any attempt to practise any such fraud, such officer or other person shall on conviction before a Magistrate be liable to imprisonment of either description for any term not exceeding two years, or to fine, or to both.

Customs-officers committing or conniving at frauds how punishable.

214. No suit, action or other proceeding shall be commenced against any person for any thing done in pursuance of this Act, without giving to such person a month's previous notice in writing of the intended suit, action or other proceeding and of the cause thereof, nor after the expiration of three months from the accrual of the cause of suit, action or other proceeding.[a]

No suit or proceeding to be commenced without notice, or after stated interval.

215. Whoever intentionally obstructs any officer of customs or other person duly employed for the prevention of smuggling in the exercise of any powers given under this Act to such officer or person, shall on conviction before a Magistrate be liable to imprisonment of either description for any term not exceeding six months, or to a fine not exceeding one thousand rupees, or to both.

Punishment for obstructing customs-officers.

216. If any person shall knowingly make or sign any declaration or document used in the transaction of any business relating to the customs, such declaration or document being false in any particular; or

Penalty for making false declaration, refusing to

[a] Repealed, so far as it relates to the limitation of suits, by Act No. IX of 1871.

produce documents or failing to answer questions truly.

if any person shall counterfeit, falsify or fraudulently alter or destroy any such document, or any seal, signature, initials or other mark made or impressed by any officer of customs in the transaction of any business relating to the customs; or

if any person required under this or any other Act relating to the customs to produce any document shall refuse or neglect to produce such document; or

if any person required under this or any other Act relating to the customs to answer any question put to him by an officer of customs shall not truly answer such question,

such person shall, on conviction of any such offence before a Magistrate, be liable to a penalty not exceeding one thousand rupees.

Penalty for unauthorized declaration to value of goods

217. Any person subscribing or attesting any declaration of the value of any goods upon an application to pass such goods through the custom-house, shall, if he be not the importer, owner or consignee of such goods, or have not proper and sufficient authority from the importer, owner or consignee, be liable in every such case to a penalty not exceeding one thousand rupees.

Officer in charge of custom-house may adjudge confiscations and penalties.

218. In every case in which, under this Act,

any vessel, cart or other means of conveyance, or any horse or other animal, is liable to confiscation; or

any goods are liable to confiscation, or to increased rates of duty; or

any person in charge of or owning a vessel, or landing or shipping goods, or passing them through the custom-house, is liable to a penalty,

an officer in charge of a custom-house may, unless it be otherwise provided in this or any other Act relating to the customs, adjudge such confiscation, penalty or increased rates of duty.

Local Government may confer like powers on other officers of customs.

219. In respect to cases cognizable under the last preceding section by an officer in charge of a custom-house, the Local Government may empower any officer of customs in like manner to adjudge any confiscation, penalty or increased rates of duty.

Limit to powers.

Provided that the power to adjudge confiscation shall not extend, as regards a Deputy Collector, to goods of a greater value than one thousand rupees, nor as regards an Assistant Collector, or other subordinate officer, to goods of a greater value than one hundred rupees; and that the power to adjudge a penalty shall not extend, as regards a Deputy Collector, to a sum exceeding fifty rupees, nor as regards an Assistant Collector, or other subordinate officer, to a sum exceeding ten rupees.

220. In any case adjudicated by an officer of customs, any party aggrieved by the award may appeal to the Chief Customs Authority of the presidency or place, or to any superior officer of customs empowered in that behalf by the Local Government.

Appeal from award of subordinate to superior officers.

It shall thereupon be lawful for such Authority or superior officer to make such further enquiry, and to pass such order, as he shall think proper, confirming, altering or annulling the original award.

Provided that no such order in appeal shall have the effect of subjecting any person to any greater confiscation, penalty or rates of duty than shall have been adjudged against him in the original award.

Bar to enhancement by order in appeal.

221. The award of any confiscation, penalty or increased rates of duty under this Act by an officer of customs shall not interfere with any punishment to which the person affected thereby shall be liable under any other law.

Penalty under Act not to interfere with punishment under other law.

222. All offences against this Act, other than those cognizable under section 218 of this Act by an officer in charge of a custom-house, may be adjudicated in a summary manner by a Magistrate.

Summary adjudication by Magistrate.

223. If, upon consideration of the circumstances under which any penalty or confiscation has been adjudged under this Act by an officer of customs or by a Magistrate, the Chief Customs Authority of the presidency or place shall be of opinion that such penalty or confiscation ought to be remitted in whole or in part, or commuted, such Chief Customs Authority may remit the same or any portion thereof, or may commute any order of confiscation to a penalty not exceeding the value of the goods ordered to be confiscated.

Remission or commutation of penalty by Chief Customs Authority.

224. When a penalty is adjudged against any person, under this Act by any officer of customs, it shall be lawful for such officer, if the penalty be not paid, to levy the same by sale of any goods of the said person which may be in his charge, or in the charge of any other officer of customs.

How payment of penalty enforced.

When an officer of customs, who has adjudged a penalty against any person under this Act, shall fail to realize the unpaid amount of such penalty from the goods of such person, it shall be lawful for such officer to notify in writing to any Magistrate within whose jurisdiction such person or any goods belonging to such person shall be, the name and residence of the said person and the amount of penalty unrecovered;

and such Magistrate shall thereupon proceed to enforce payment of the said amount in like manner as if the penalty had been adjudged by himself.

225. When a penalty or fine is adjudged against any person under this Act by a Magistrate, such Magistrate shall, at the same time, fix, within the

Periods of imprisonment, in default of

payment of penalty or fine, to be fixed within certain limits.

following limits, a period of imprisonment in default of payment of such penalty or fine :—

if the penalty or fine do not exceed fifty rupees, the term of imprisonment to be fixed in default of payment shall not exceed one month :

if the penalty or fine do not exceed one hundred rupees, the term of imprisonment to be fixed in default of payment shall not exceed two months :

if the penalty or fine do not exceed five hundred rupees, the term of imprisonment to be fixed in default of payment shall not exceed four months :

when the penalty or fine exceeds five hundred rupees, the term of imprisonment to be fixed in default of payment may extend to six months.

Power to levy by distress and sale.

It shall be lawful for the Magistrate at any time to enforce payment of any penalty or fine, or of any portion thereof, by distress and sale of the goods of the defaulter.

Imprisonment to terminate upon payment of fine.

226. The imprisonment which is imposed in default of payment of fine or penalty under this or any other Act relating to the customs shall terminate whenever that fine or penalty is either paid or levied by process of law.

Or upon payment of proportional part of fine.

227. If, before the expiration of the term of imprisonment fixed in dedefault of payment, such a proportion of the fine or penalty be paid or levied that the term of imprisonment suffered in default of payment is not less than proportional to the part of the fine or penalty still unpaid, the imprisonment shall terminate.

On confiscation of vessel or goods, property to vest in Her Majesty.

228. When the confiscation of any vessel, cart or other means of conveyance, horse or other animal, or any goods, shall be adjudged under section 218 or section 219 of this Act, the property in such vessel, means of conveyance, animal or goods shall thereupon vest in Her Majesty.

Holding possession.

It shall be the duty of the officer adjudging confiscation [a] to take and hold possession of the same, and it shall be the duty of every officer of police, on the requisition of such officer, to assist him in taking and holding such possession.

Appropriation of penalties, &c., and grant of rewards.

229. The proceeds of all confiscations and penalties imposed under this Act shall, after deducting therefrom all Government demands, be paid into a General Fund, out of which it shall be lawful for the Chief Customs Authority of the presidency or place to grant a reward to any person by whose information, assistance or instrumentality, any seizure shall have been made or any offence punished.

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[a] See sec. 222 & sec. 3, cl. 5.

A.

FORM OF APPLICATION FOR A LICENSE FOR PRIVATE WAREHOUSE.

(*See section* 74.)

To

THE OFFICER IN CHARGE OF THE CUSTOM-HOUSE AT

SIR,

PLEASE to comply with my request to be furnished with a license under Act VI of 1863 for a warehouse situated at and about the distance of from the custom-house. The dimensions and other particulars of the godown are stated below. It is intended for the reception of all goods, as a general store-house *(or as the case may be)*. The period of license not to exceed *(mention the time for which required)*.

Particulars of Godown.

	Feet—Inches.	
Length	...	Dry, airy, well-flued and pakka-built; can contain with perfect safety and convenience tons of goods *(as the case may be.)*
Breadth	...	
Height	...	

This godown is my own property (*or* the property of , from whom I have engaged the same on a lease of)

(Signed) ( )
Name of Applicant.

Place
Date

B.

FORM OF APPLICATION TO WAREHOUSE GOODS.

(*See section* 75.)

To

THE OFFICER IN CHARGE OF THE CUSTOM-HOUSE AT

SIR,

PLEASE to order the reception into the public warehouse *(or* the private warehouse of *Mr. A. B.*, situate at and licensed

by No. dated) of the under-mentioned goods, arrived from *(port or place to be mentioned)*, on the (British *or other*) ship whereof is commander.

The duty upon these goods has been adjusted in the manner specified below :—

Marks and numbers of packages.	Description of packages and goods.	Details of goods.	Rate of value of goods.	Amount of value of the goods as ascertained and entered on the landing of the same.	Rate of customs-duty.	Date and number of importation.	Specification of the particulars of bonds if the duty upon goods has been bonded.
1.	2.	3.	4.	5.	6.	7.	8.

(Signed) ( )
Name of owner, agent or consignee of goods.

Place
Date

C.

FORM OF BOND FOR IMPORT DUTY.

(*See sections* 77 *and* 78.)

BOND

No. 18

We, *A. B.*,

now of

; and *C. D.*,

of the same place, are jointly and severally bound to Her Majesty's Secretary of State for India in the sum of Government rupees

to be paid to the said Secretary of State, for which payment we jointly and severally bind ourselves, our heirs and representatives ; and we agree that, in case of dispute touching the matter of this obligation or the condition thereof, the same may be heard and determined in the High Court of Judicature at

Sealed with our seals (*date*)

(*Signed*)

The above bounden having applied to the officer in charge of the custom-house at for and obtained permission to lodge in the warehouse for a period of the following goods, that is to say—

imported by sea from on board of the ship and entered in the custom-house-books as No. of the Register of goods imported by sea ;

The condition of this Bond is, that ;

If the their heirs or representatives shall observe all the rules prescribed in Act No. VI of 1863 to be observed by owners, importers or consignees of goods warehoused, and by persons obtaining permission to warehouse goods under the provisions thereof ;

And if the said their heirs or representatives shall pay to the officer in charge of the custom-house at the port of , all dues, whether of customs, warehouse-dues or lawful charges which shall be demandable on the said goods, or on account of penalties incurred in respect to them, within

from the date of this bond, or within such further time as the Chief Customs Authority of shall allow in that behalf, together with interest on every such sum at the rate of six per cent. per annum from the date of demand thereof being made in writing by the said officer in charge of the custom-house ; ,

And if, within the term so fixed or enlarged, the said goods or any portion thereof having been removed from the said warehouse for home-consumption or re-exportation by sea, the full amount of all customs-duties, warehouse-dues, lawful charges and penalties demandable as aforesaid shall have been first paid on the whole of the said goods ;

This obligation shall be void.

Otherwise, and on breach or failure in the performance of any part of this condition, the same shall be in full force.

Sealed with our seals, (*date*)

(*Signed*) ( )

D.

FORM OF APPLICATION TO REMOVE GOODS FROM WAREHOUSE.

(*See section* 99.)

To

THE OFFICER IN CHARGE OF THE CUSTOM-HOUSE

AT

SIR,

PLEASE to order to be passed from the public warehouse (*or* private warehouse of *Messrs. A. & Co.*, situate at and licensed under Act VI of 1863 by No. dated) the under-mentioned goods intended for exportation by sea on the ship whereof is commander and which is bound to (*or* for internal consumption), the same having been entered in the books of your office for the said warehouse, under No. dated by me (*or* by *Messrs. B. & Co.—in the latter case add*—whose certificate of the transfer of the goods is herewith annexed).

Marks and No. of cases, B. & Co., (*Name of the goods.*) No. 1 to 4. □ × ✓ Sealed, Warehoused for exportation,	Four cases of (*name of goods*)—1 case (box, bale, *or* parcel,) containing (*here insert the quantity in each case.*) 1 Ditto. 1 Ditto. 1 Ditto. Four cases (boxes, bales, *or* parcels) containing(*total contents to be here stated*).

The custom-house value of the above is Government rupees

(*Signed*) ( )

Name of owner, agent or consignee of goods.

Place

Date

E.

FORM OF APPLICATION TO REMOVE GOODS FROM ONE WAREHOUSE TO ANOTHER.

(*See section* 105.)

To

THE OFFICER IN CHARGE OF THE CUSTOM-HOUSE AT

SIR,

Please to permit the removal of the under-mentioned goods from the public (*or* private) warehouse (*describe the warehouse*) to (*the warehouse into which the removal is intended to be made must here be distinctly described*) for the unexpired period of warehousing remaining in respect to the goods, the same having been originally entered by virtue of Act VI of 1863 in the books of the Warehousing Department, No. dated for fifteen months (*or such other period as may have been allowed*) under the obligations and conditions at present attached to the goods.

Marks and numbers of packages.	Description of packages and of goods.	Contents of packages	Rate of value of goods.	Amount of value of goods as entered in custom-house-books.	Rate of duty chargeable or paid upon the goods.	Name of the persons by whom goods first passed into warehouse.
1.	2.	3.	4.	5.	6.	7.

NOTE—*If the goods to be removed shall have been sold or transferred by the original proprietor or agent, a certificate of such sale or transfer shall accompany the application.*

(*Signed*) ( )

Name of owner, agent or consignee of goods.

Place

Date

F.

FORM OF SHIPPING BILL—(*see section* 123.)

Shipping Bill ... { 1. Warehouse or drawback goods.
2. Foreign goods not for drawback.
3. Goods exported under special rule of restriction.
4. Country-goods subject to duty.
5. Country-goods not subject to duty. }

(*State, as described, the class to which the goods to be exported belong.*)

Ship's name.	Whether British or Foreign; if Foreign, the country.	Master's name.	Port or place of destination.	Marks.	Numbers.	Description of packages.	Quantity, quality, and description of goods.	Rate of value for duty.	Total value for duty.	Declared real value under section 26.	REMARKS.
1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.

Here state particulars according to the above headings.

I claim drawback on { *Here state quantity and description in words, at length, of any goods in respect of which drawback is claimed, and number in register of custom-house* }

I declare the value of the goods above described to be

( )

Name of exporter or agent.

( )

Name of officer in charge of custom-house.

Dated day of

G.

FORM OF COASTING PASS—(*see section* 154.)

Port of

Ship's name.	Tonnage.	Port of registry.	Master's name.	Whither bound.	Foreign goods, duty paid.	Warehoused goods removed in bond.	Country-goods.	Restricted goods and goods liable to duty of excise.
1.	2.	3.	4.	5.	6.	7.	8.	9.

☞ *Here state the particulars according to the above headings.*

Cleared the day of 18 (*Signed*) ( ) *Officer in charge of Custom-house.*

(*Signed*) ( ) *Name of Master.*

H.

FORM OF BOND FOR THE REMOVAL OF SPIRITS FROM LICENSED DISTILLERY.

(see section 163.)

We

are jointly and severally bound to Her Majesty's Secretary of State for India, in the sum of Government rupees to be paid to the said Secretary of State, for which payment we jointly and severally bind ourselves, our heirs and representatives; and we agree that in case of dispute touching the matter of this obligation, or the condition thereof, the same may be heard and determined in the High Court of Judicature at

Sealed with our seals, dated this day of 18

(Signed)

( )

The above bounden being indebted to Her Majesty's Secretary of State for India in the sum of Government rupees being the amount of duty payable at the rate of rupees per imperial gallon London proof, for gallons of (*or* for gallons of proof-spirit used in the preparation of dozens of bottles, *or* gallons, of cordials and liquors as specified in the annexed schedule) manufactured at which the said have been allowed to remove thence for exportation by sea, subject to the provisions of Act VI of 1863, without having paid such duty.

The condition of this obligation is, that, if the above bounden , their heirs or representatives, shall, at the expiration of four calendar months from the date of this obligation, pay or cause to be paid to the said Secretary of State duty at the rate of rupee per imperial gallon of proof-spirits for all or any portion of the above-mentioned , which shall not have been then exported by sea, subject to the aforesaid provisions (of which exportation, if any, due proof shall be given) or passed for local consumption on payment of duty, then this Bond shall be void; otherwise the same shall remain in full force.

Sealed and delivered in the presence of

Place

Date

(*If the bond be for cordials and other liquors under section* 170, *add schedule.*)

Description of cordials and liquors.	Quantity in bottles or gallons.	Quantity of proof-spirit.
1	2	3

ACT No. IX OF 1863.

Received the Governor General's assent on the 23*rd February* 1863.

An Act to amend the Code of Civil Procedure.

Preamble.

WHEREAS the Code of Civil Procedure requires that appeals from decisions or orders to the Sadr Court shall ordinarily be heard and determined by two or more Judges of the said Court; and whereas, in the territories not subject to the general Regulations, the highest civil Courts of appeal, which are declared by section 386 of Act VIII of 1859 to be included in the expression "Sadr Court" in any part of the said territories to which the said Code may be extended, generally consist of only a single Judge, and it is expedient to make provision for the powers to be exercised by such single Judge in hearing appeals from decisions and orders or in proceedings relating to any other matter which may be brought before him; It is enacted as follows:—

In certain places, highest civil Court of appeal to have powers of Sadr Court.

1. When in any part of the British territories in India to which the Code of Civil Procedure has been or shall be extended under the provisions of section 385 of the said Code, the highest civil Court of appeal consists of a single Judge, such Judge shall have all the powers vested by such Code in two or more Judges of the Sadr Court.

No order or proceeding void because passed by, or held before, single Judge of such Court.

2. No order passed by, or proceeding held before, the single Judge of any such highest civil Court of appeal, subsequent to the extension of the Code of Civil Procedure to such part of the British territories in India, shall be deemed invalid or be liable to be questioned on the ground that such order or proceeding was passed by, or held before, a single Judge.

ACT XVI OF 1863.

Received the Governor General's assent on the 10th March 1863.

An Act to make special provision for the levy of the Excise Duty payable on Spirits used exclusively in Arts and Manufactures or in Chemistry.[a]

Preamble.

WHEREAS it is expedient to make special provision for the levy of the excise-duty payable on spirits used exclusively in arts and manufactures or in chemistry; It is enacted as follows:—

Duty payable on removal of such spirits from distillery.

1. Spirits intended to be used exclusively in arts and manufactures or in chemistry may be removed from any licensed distillery in any part of British India on payment of duty calculated at ten per cent. on the value of the spirits,

Proviso.

provided that no spirits shall be so removed until they have been effectually and permanently rendered unfit for human consumption.

Rules for ascertaining that spirits to be removed have been rendered unfit for human consumption, &c.

2. The Board of Revenue, or other authority specially authorized in that behalf by the Local Government, shall prescribe from time to time, subject to the approval of the Local Government, rules

for ascertaining and determining that spirits proposed to be removed for the purposes aforesaid have been effectually and permanently rendered unfit for human consumption, as required by section 1 of this Act;

for causing such spirits to be so rendered, if necessary, by its own officers, at the expense of the person who wishes to remove them; and

for fixing the value of the spirit on which the *ad valorem* duty shall be levied.

Penalty for breach of such rules.

3. Every person who shall wilfully contravene any rule prescribed by the Board of Revenue, or other authority as aforesaid, under the last preceding section of this Act, shall be liable on conviction before any officer exercising the powers of a Magistrate to a penalty not exceeding five hundred rupees for every such offence.

Penalty for attempting to render fit for human consumption, spirits removed under Act.

4. Every person who shall attempt, or shall connive at an attempt, to render fit for human consumption, spirits removed from a distillery under the provisions of this Act, shall be liable to a penalty not exceeding one thousand rupees;

and the possessor of such spirits on which such attempt has been made, or which may have been rendered fit for human consumption, shall be liable

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[a] Declared to apply to the whole of British India, except the Scheduled Districts, Act XV of 1874.

on conviction before any officer exercising the powers of a Magistrate to a penalty not exceeding five hundred rupees.

Penalty how levied.

5. Any penalty imposed under either of the last two preceding sections may in case of non-payment be levied by distress and sale of the goods and chattels of the offender, by warrant under the hand of the officer by whom such penalty was imposed.

In case of non-payment of penalty, offender may be detained pending return to distress-warrant.

6. In case any such penalty shall not be forthwith paid, any such officer may order the offender to be apprehended and detained in safe custody, until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of such officer for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

Imprisonment of offender in case of failure to recover penalty by distress.

7. If upon the return of such warrant it shall appear that no sufficient distress can be had whereon to levy such penalty, and the same shall not be forthwith paid, or

in case it shall appear to the satisfaction of such officer by the confession of the offender or otherwise that he has not sufficient goods and chattels whereupon such penalty could be levied if a warrant of distress were issued,

any such officer may by warrant under his hand commit the offender to the civil jail, there to be imprisoned, according to the discretion of such officer, for any term not exceeding two calendar months when the amount of penalty shall not exceed fifty rupees, and for any term not exceeding four calendar months, when the amount shall not exceed one hundred rupees, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount.

Provisions of section 11, Act III of 1852, relating to adulteration, not to apply to spirits rendered unfit for consumption under Act.

8. The prohibition contained in section 11 of Act III of 1852 (*to amend the law relating to spirituous and intoxicating liquors, drugs and preparations within the Territories subordinate to the Presidency of Bombay*) against mixing any noxious drug or material in, or by other process adulterating, spirits manufactured under the provisions of Regulation XXI of 1827 of the Bombay Code,[a] or of the said Act III of 1852, shall not apply to spirits rendered unfit for human consumption under this Act.

Confiscation in cases of conviction under section 3 or 4.

9. In every case of conviction under section 3 or section 4 of this Act, the liquor or spirits with the cask or vessel containing the same, and the cart, boat and animal or animals employed in carrying such liquor or spirit, shall be liable to confiscation.

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[a] See secs. 54—60 of that Regulation.

ACT No. XVIII OF 1863.

Received the Governor General's assent on the 10*th March* 1863.

An Act to make provision for the speedy and efficient disposal of the business now pending in the Office of the Master of the High Court of Judicature at Fort William in Bengal, and to amend the Code of Civil Procedure in respect of process issued out of the said Court in the exercise of its Original Civil Jurisdiction.

Preamble.

WHEREAS, at the time of the abolition of the late Supreme Court of Judicature at Fort William in Bengal, many matters which had been referred to the Master of the said Court were pending before him, and many of them are still pending before the Master of the High Court, and it is expedient that all such matters should be wound up and determined as expeditiously as possible; and whereas it is expedient that the Code of Civil Procedure should be amended in respect of process issued out of the said High Court in the exercise of its ordinary original civil jurisdiction; It is enacted as follows:—

1 to 4 [*Repealed by Act No. VIII of* 1868.]

Powers of Master exercisable by Judge.

5. From and after the passing of this Act all or any of the powers, authorities and jurisdiction, which at the time of the abolition of the said Supreme Court were vested in the Master in Equity, may be exercised by the High Court, or by a Judge of the said Court.

Power of Court as to suit in abeyance for a year.

6. Whenever it shall appear from the certificate of the Master that no proceedings have been taken in his office for a period of one year in any reference pending before him, the Court shall have power to dismiss such suit, or to make such other order or decree in the suit as to the Court shall seem fit.

Power of division Court to refer matters for investigation by single Judge.

7. It shall be lawful for any division Court consisting of more than one Judge to adjourn, for the consideration of a single Judge, any matters of account, detail or other description which, in the opinion of such Court, may be more conveniently investigated by a single Judge sitting in chambers,

and such matters shall thereupon be investigated by a single Judge, who shall proceed with such investigation sitting either in chambers or in open Court, and shall report thereon to a division Court, and such report shall, as regards such division Court, be final, but shall be open to revision by any Court of appeal to whom the order or decree founded thereon may be appealed.

The Chief Justice shall from time to time determine in each case what Judge shall take or proceed with the investigation.

Power to make rules.

8. The said High Court shall have power to make general rules for orders

for winding up the business now pending in the office of the said Master, and generally for regulating the conduct of business, and the manner in which the same shall be transacted in the Master's office, and

for regulating the procedure of a single Judge touching investigations before him under the provisions of this Act.

Provided that such rules and orders shall not be inconsistent with the provisions of this Act, or of any Act for the time being in force relating to such matters.

9. [*Repealed by Act No. X of* 1873.]

Process from High Court may be served by attorneys and others.

10. After the passing of this Act, notices to produce documents or writings, summonses to witnesses, and all other judicial process issued in the exercise of the ordinary original civil jurisdiction of the High Court of Judicature at Fort William in Bengal, except writs of summons to defendants issued under section 41 of Act VIII of 1859 (*the Code of Civil Procedure*) and writs of execution, may be served by the attorneys in the suit, or by persons employed by them, or in such other manner as the said High Court shall by any rules or orders from time to time direct.

Not necessary for Judge to sign process.

11. It shall not be necessary for a Judge of the said High Court to sign any writ, order, summons or other judicial process issued or made in the exercise of the ordinary original civil jurisdiction of the said High Court.

The said High Court shall have power from time to time to direct that such writs, orders or other process shall be signed by such officer or officers of the said Court as to the Court may seem fit.

Extension of Act to High Courts at Madras and Bombay.

12. This Act may be extended to the High Court of Judicature at Madras and the High Court of Judicature at Bombay, by an order of the Governor in Council of Fort Saint George, and the Governor in Council of Bombay, respectively, to be published in the official Gazettes of Madras and Bombay, respectively; [a]

and when so extended by such order, shall take effect in the said Courts from the date of the publication of such order.

When so extended to either of such High Courts, this Act shall in all respects apply to such High Court in the same manner as if the name of such High Court had appeared in this Act wherever the name of the High Court of Judicature at Fort William in Bengal appears.

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[a] Extended to the High Court at Madras, 1st January 1864; to the High Court at Bomba 20th January 1866

ACT No. XX OF 1863.[a]

Received the Governor General's assent on the 10*th March* 1863.

An Act to enable the Government to divest itself of the management of Religious Endowments.

Preamble.

WHEREAS it is expedient to relieve the Boards of Revenue, and the Local Agents, in the Presidency of Fort William in Bengal, and the Presidency of Fort Saint George, from the duties imposed on them by Regulation XIX. 1810 of the Bengal Code (*for the due appropriation of the rents and produce of lands granted for the support of Mosques, Hindú Temples, Colleges and other purposes; for the maintenance and repair of Bridges, Sarais, Kattras and other public buildings; and for the custody and disposal of Nazúl Property or Escheats*), and Regulation VII. 1817 of the Madras Code (*for the due appropriation of the rents and produce of lands granted for the support of Mosques, Hindú Temples and Colleges or other public purposes; for the maintenance and repair of Bridges, Choultries, or Chattirams, and other public buildings; and for the custody and disposal of Escheats*), so far as those duties embrace the superintendence of lands granted for the support of mosques or Hindú temples, and for other religious uses; the appropriation of endowments made for the maintenance of such religious establishments; the repair and preservation of buildings connected therewith, and the appointment of trustees or managers thereof; or involve any connexion with the management of such religious establishments. It is enacted as follows:—

1. [*Repealed by Act No. XIV of* 1870.]

Interpretation-clause.

2. In this Act—

Number.

words importing the singular number shall include the plural, and words importing the plural number shall include the singular:

Gender.

words importing the masculine gender shall include females:

"Civil Court" and "Court."

the words "Civil Court" and "Court" shall mean the principal Court of original civil jurisdiction in the district in which the mosque, temple or religious establishment is situate, relating to which, or to the endowment whereof, any suit shall be instituted or application made under the provisions of this Act.

Government to make special provision respect-

3. In the case of every mosque, temple or other religious establishment to which the provisions of either of the Regulations specified in section 1 are applicable, and the nomination of the trustee, manager or superintendent

[a] Extended to Canara by Bombay Act No VII of 1865. Sec. 22 applies to the whole of British India.

whereof, at the time of the passing of this Act, is vested in, or may be exercised by, the Government or any public officer, or in which the nomination of such trustee, manager or superintendent shall be subject to the confirmation of the Government or any public officer, the Local Government shall, as soon as possible after the passing of this Act, make special provision as hereinafter provided.

ing mosques, &c.

4. In the case of every such mosque, temple or other religious establishment which, at the time of the passing of this Act, shall be under the management of any trustee, manager or superintendent, whose nomination shall not vest in, nor be exercised by, nor be subject to the confirmation of, the Government or any public officer, the Local Government shall, as soon as possible after the passing of this Act, transfer to such trustee, manager or superintendent, all the landed or other property which, at the time of the passing of this Act, shall be under the superintendence or in the possession[a] of the Board of Revenue or any local agent, and belonging to such mosque, temple or other religious establishment, except such property as is hereinafter provided;

Transfer to trustees, &c., of trust-property in charge of Revenue Board.

and the powers and responsibilities of the Board of Revenue and the local agents, in respect to such mosque, temple or other religious establishment, and to all land and other property so transferred, except as regards acts done and liabilities incurred by the said Board of Revenue or any local agent, previous to such transfer, shall cease and determine.

Cessation of Board's powers as to such property.

5 Whenever from any cause a vacancy shall occur in the office of any trustee, manager or superintendent to whom any property shall have been transferred under the last preceding section, and any dispute shall arise respecting the right of succession to such office, it shall be lawful for any person interested in the mosque, temple or religious establishment to which such property shall belong, or in the performance of the worship or of the service thereof, or the trusts relating thereto, to apply to the civil Court to appoint a manager of such mosque, temple or other religious establishment, and thereupon such Court may appoint such manager to act until some other person, shall by suit have established his right of succession to such office.

Procedure in case of dispute as to right of succession to vacated trusteeship.

The manager so appointed by the civil Court shall have, and shall exercise all the powers which, under this or any other Act, the former trustee, manager or superintendent in whose place such manager is appointed by the Court had or could exercise, in relation to such mosque, temple or religious establishment, or the property belonging thereto.

Powers of managers appointed by Court.

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[a] See 5 Mad. 342.

Rights, &c., of trustees to whom property is transferred under section 4.

6. The rights, powers and responsibilities of every trustee, manager or superintendent to whom the land and other property of any mosque, temple or other religious establishment is transferred in the manner prescribed in section 4 of this Act, as well as the conditions of their appointment, election and removal, shall be the same as if this Act had not been passed, except in respect of the liability to be sued under this Act, and except in respect of the authority of the Board of Revenue and local agents, given by the Regulations hereby repealed, over such mosque, temple or religious establishment, and over such trustee, manager or superintendent, which authority is hereby determined and repealed.

Appointment of committees.

All the powers which might be exercised by any Board or local agent, for the recovery of the rent of land or other property transferred under the said section 4 of this Act may, from the date of such transfer, be exercised by any trustee, manager or superintendent to whom such transfer is made.

Constitution and duties of committees.

7. In all cases described in section 3 of this Act, the Local Government shall once for all appoint one or more committees in every division or district, to take the place, and to exercise the powers,[a] of the Board of Revenue and the local agents under the Regulations hereby repealed.

Such committee shall consist of three or more persons, and shall perform[b] all the duties imposed on such Board and local agents, except in respect of any property which is specially provided for under section 21 of this Act.

Qualifications of member of committee.

8. The members of the said committee shall be appointed from among persons professing the religion for the purposes of which the mosque, temple or other religious establishment was founded or is now maintained, and in accordance, so far as can be ascertained, with the general wishes of those who are interested in the maintenance of such mosque, temple or other religious establishment.

The appointment of the committee shall be notified in the official Gazette.

Ascertaining wishes of persons interested.

In order to ascertain the general wishes of such persons in respect of such appointment, the Local Government may cause an election to be held, under such rules (not inconsistent with the provisions of this Act) as shall be framed by such Local Government.

Tenure of office.

9. Every member of a committee appointed as above shall hold his office for life, unless removed for misconduct or unfitness,

Removal.

and no such member shall be removed except by an order of the civil Court as hereinafter provided.

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[a] See 3 Mad. 334, 338.

[b] As to whether unanimity is necessary, or a majority is sufficient, see 4 Mad. 446.

10. Whenever any vacancy shall occur among the members of a committee appointed as above, a new member shall be elected to fill the vacancy, by the persons interested as above provided. Vacancies to be filled.

The remaining members of the committee shall, as soon as possible, give public notice of such vacancy, and shall fix a day, which shall not be later than three months from the date of such vacancy, for an election of a new member by the persons interested as above provided, under rules for elections which shall be framed by the Local Government, Procedure.

and whoever shall be then elected, under the said rules, shall be a member of the committee to fill such vacancy.

If any vacancy as aforesaid shall not be filled up by such election as aforesaid within three months after it has occurred, the civil Court, on the application of any person whatever, may appoint a person to fill the vacancy, or may order that the vacancy be forthwith filled up by the remaining members of the committee, with which order it shall then be the duty of such remaining members to comply, and if this order be not complied with, the civil Court may appoint a member to fill the said vacancy. When Court may fill vacancy.

11. No member of a committee appointed under this Act shall be capable of being, or shall act, also as a trustee, manager or superintendent of the mosque, temple or other religious establishment for the management of which such committee shall have been appointed. No member of committee to be also trustee, &c., of mosque, &c.

12. Immediately on the appointment of a committee as above provided, for the superintendence of any such mosque, temple or religious establishment, and for the management of its affairs, the Board of Revenue, or the local agents acting under the authority of the said Board, shall transfer to such committee all landed or other property which at the time of appointment shall be under the superintendence, or in the possession, of the said Board or local agents, and belonging to the said religious establishment, except as is hereinafter provided for, On appointment of committee, Board and local agents to transfer property.

and thereupon the powers and responsibilities of the Board and the local agents, in respect to such mosque, temple or religious establishment, and to all land and other property so transferred, except as above, and except as regards acts done and liabilities incurred by the said Board or agents previous to such transfer, shall cease and determine. Termination of powers and responsibilities of Board and agents.

All the powers which might be exercised by any Board or local agent, for the recovery of the rent of land or other property transferred under this section, may from the date of such transfer be exercised by such committee to whom such transfer is made. Commencement of powers of committee.

Duty of trustee, &c., as to accounts.

13. It shall be the duty of every trustee, manager and superintendent of a mosque, temple or religious establishment to which the provisions of this Act shall apply, to keep regular accounts of his receipts and disbursements, in respect of the endowments and expenses of such mosque, temple or other religious establishment;

And of committee.

and it shall be the duty of every committee of management, appointed or acting under the authority of this Act,[a] to require from every trustee, manager and superintendent of such mosque, temple or other religious establishment, the production of such regular accounts of such receipts and disbursements at least once in every year, and every such committee of management shall themselves keep such accounts thereof.

Person interested may singly sue in case of breach of trust, &c.

14. Any person or persons interested in any mosque, temple or religious establishment,[b] or in the performance of the worship or of the service thereof, or the trusts relating thereto, may, without joining as plaintiff any of the other persons interested therein, sue before the civil Court the trustee, manager or superintendent of such mosque, temple or religious establishment, or the member of any committee appointed under this Act, for any misfeasance, breach of trust or neglect of duty, committed by such trustee, manager, superintendent or member of such committee, in respect of the trusts vested in, or confided to, them respectively,[c]

Powers of civil Court.

and the civil Court may direct the specific performance of any act by such trustee, manager, superintendent or member of a committee,

and may decree damages and costs against such trustee, manager, superintendent or member of a committee,

and may also direct the removal of such trustee, manager, superintendent or member of a committee.

Nature of interest entitling person to sue.

15. The interest required in order to entitle a person to sue under the last preceding section need not be a pecuniary, or a direct or immediate, interest, or such an interest as would entitle the person suing to take any part in the management or superintendence of the trusts.

Any person having a right of attendance, or having been in the habit of attending, at the performance of the worship or service of any mosque, temple or religious establishment, or of partaking in the benefit of any distribution of alms, shall be deemed to be a person interested within the meaning of the last preceding section.

Reference to arbitrators.

16. In any suit or proceeding instituted under this Act, it shall be lawful for the Court before which such suit or proceeding is pending, to order any

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[a] See 5 Mad. 48, 53. [b] See 5 Beng., Appendix, 55. [c] 3 Mad. 198 4 Mad. 112.

matter in difference in such suit to be referred for decision to one or more arbitrators.[a]

Whenever any such order shall be made, the provisions of chapter VI of the Code of Civil Procedure shall in all respects apply to such order and arbitration, in the same manner as if such order had been made on the application of the parties under section 312 of the said Code.

Civil Procedure Code applied.

17. Nothing in the last preceding section shall prevent the parties from applying to the Court, or the Court from making the order of reference, under the said section 312 of the said Code of Civil Procedure.

Reference under Civil Procedure Code.

18. No suit shall be entertained under this Act[b] without a preliminary application being first made to the Court for leave to institute such suit.

Application for leave to institute suit.

The Court, on the perusal of the application, shall determine whether there are sufficient *primâ facie* grounds for the institution of a suit, and if in the judgment of the Court there are such grounds, leave shall be given for its institution.[d]

If the Court shall be of opinion that the suit has been for the benefit of the trust, and that no party to the suit is in fault, the Court may order the costs, or such portion as it may consider just, to be paid out of the estate.

Costs.

19. Before giving leave for institution of a suit, or, after leave has been given, before any proceeding is taken, or at any time when the suit is pending, the Court may order the trustee, manager or superintendent, or any member of a committee, as the case may be, to file in Court the accounts of the trust, or such part thereof as to the Court may seem necessary.

Court may require accounts of trust to be filed.

20. No suit or proceeding before any civil Court under the preceding sections, shall in any way affect or interfere with any proceeding in a criminal Court for criminal breach of trust.

Proceedings for criminal breach of trust.

21. In any case in which any land or other property has been granted for the support of an establishment partly of a religious and partly of a secular character,

or in which the endowment made for the support of an establishment is appropriated partly to religious and partly to secular uses,

the Board of Revenue, before transferring to any trustee, manager or superintendent, or to any committee of management appointed under this Act, shall determine what portion, if any, of the said land or other property shall remain under the superintendence of the said Board for application to secular uses,

Cases in which endowments are partly for religious and partly for secular purposes.

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[a] 7 Mad. 173.

[b] 4 Mad. 2, 404.

[c] See Act No. VII of 1870, sched. II, No. 1.

[d] As to the effect of refusing leave, 4 Mad. 410.

and what portion shall be transferred to the superintendence of the trustee, manager or superintendent, or of the committee,

and also what annual amount, if any, shall be charged on the land or other property which may be so transferred to the superintendence of the said trustee, manager or superintendent, or of the committee, and made payable to the said Board or to the local agents, for secular uses as aforesaid.

In every such case the provisions of this Act shall take effect only in respect to such land and other property as may be so transferred.

Government not to hold charge henceforth of property for support of any mosque, temple, &c.

22. Except as provided in this Act, it shall not be lawful for any Government in India, or for any officer of any Government in his official character,

to undertake or resume the superintendence of any land or other property granted for the support of, or otherwise belonging to, any mosque, temple or other religious establishment, or

to take any part in the management or appropriation of any endowment made for the maintenance of any such mosque, temple or other establishment, or

to nominate or appoint any trustee, manager or superintendent thereof, or

to be in any way concerned therewith.

Effect of Act in respect of Regulations therein mentioned, and of buildings of antiquity, &c.

23. Nothing in this Act shall be held to affect the provisions of the Regulations mentioned in this Act, except in so far as they relate to mosques, Hindú temples and other religious, establishments ; or to prevent the Government from taking such steps as it may deem necessary, under the provisions of the said Regulations, to prevent injury to and preserve buildings remarkable for their antiquity, or for their historical or architectural value, or required for the convenience of the public.

"India."

24. The word "India" in this Act shall denote the territories which are or may become vested in Her Majesty by the Statute 21 & 22 Vic., c. 106, entitled "An Act for the better government of India."

ACT No. XXIII of 1863.

Received the Governor General's assent on the 10*th March* 1863.

An Act to provide for the adjudication of claims to waste-lands.[a]

Preamble.

WHEREAS it is expedient to make special provision for the speedy adjudication of claims which may be preferred to waste-lands proposed to be sold, or

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[a] Declared to apply to the whole of British India, except the Scheduled Districts, Act No. XV of 1874.

otherwise dealt with, on account of Government, and of objections taken to the sale or other disposition of such lands ; It is enacted as follows :—

Enquiry into claims to land, or objections to its sale.

1. When any claim shall be preferred to any waste-land proposed to be sold or otherwise dealt with on account of Government, or when any objection shall be taken to the sale or other disposition of such land, the collector of the district in which such land is situate, or other officer performing the duties of a collector of land-revenue in such district by whatever name his office is designated, shall, if the claim or objection be preferred within the period mentioned in the advertisement to be issued for the sale or other disposition of such land, which period shall not be less than three months, proceed to make an enquiry into the claim or objection.

Procedure in such cases.

2. The collector or other officer as aforesaid shall call upon the claimant or objector to produce any evidence or documents upon which he may rely in proof of his claim or objection ; and after considering the same, and making any further enquiry that may appear proper, shall dispose of the case by an order for the admission or rejection of the claim or objection ; and if the land is proposed to be sold, for the sale of the same subject to any condition or reservation which, to such collector or other officer as aforesaid, shall appear to be proper.

Notification of conditions.

If the land is ordered to be sold subject to any condition or reservation, such condition or reservation shall be notified to intending purchasers at the time of sale.

Postponement of sale pending enquiry,

3. Pending an enquiry into any claim or objection under the last preceding section, the collector or other officer as aforesaid shall postpone the sale or other disposition of the land ;

and to allow claimant to contest rejection of claim.

and if he shall order that such claim or objection be rejected, he shall further postpone the sale or other disposition of the land, to allow the claimant or objector to contest the order of rejection in the manner hereinafter provided.

Sale to be stopped if claim appear to be established,

4. If the collector or other officer as aforesaid shall consider the claim or objection to be established, and that the sale or other disposition of the land should not take place, he shall stop the sale or other disposition of the land :

but may afterwards be proceeded with.

but such sale or other disposition of the land may afterwards be proceeded with, if, on an order issued by the Local Government to try the claim or objection, as provided in section 6 of this Act, the claimant or objector shall fail to establish the same.

Delivery to claimant of copy of order of rejection or for sale.

5. If the collector or other officer aforesaid shall order that the claim or objection be rejected, or that the land be sold subject to any condition or reservation, or that it be otherwise dealt with, he shall cause a copy of such order to be delivered to the claimant or objector ;

Order when final.

and if such claimant or objector shall not, within one week from the delivery of such copy, or within such further time as the collector or other officer as aforesaid, for any special reason to be recorded, shall see fit to grant, give notice in writing to such collector or other officer as aforesaid, that he intends to contest such order, the order shall be final.

Report to Board.

If the claimant or objector shall, within the time allowed, give such notice, the collector or other officer as aforesaid shall immediately make a report to the Board of Revenue or other superior revenue authority; and shall forward with such report a copy of his order, stating fully all the circumstances of the case, and the evidence adduced in support, or otherwise, of the claim or objection;

Decision of Board.

and such Board or other authority, on the receipt of such report, and after calling for any further information which it may consider necessary, may confirm, modify or reverse the order of the collector or other officer as aforesaid.

Certification to Court.

If the Board or other authority as aforesaid confirm the order of the collector or other officer as aforesaid, or modify such order in such manner as to leave any part of such order in force adverse to the claimant or objector, the collector or other officer as aforesaid shall certify such order to the Court constituted as hereinafter provided;

Notice to claimant.

and such Court shall forthwith give notice to the claimant or objector;

Decision when final.

and if such claimant or objector shall not institute a suit[a] in such Court to establish his claim or objection, the order of the Board or other authority aforesaid shall be final.

Power to order suit to try claim admitted by collector.

6. The Local Government may, within twelve months after the date on which the claim of any claimant of waste-land, or the objection of any objector, as aforesaid, shall have been admitted under this Act by the collector or other officer as aforesaid, direct a suit to be brought to try the claim or objection of the claimant or objector, in a Court constituted as hereinafter provided.

Special Court for trying claims.

7. For the investigation and trial of claims under this Act, the Local Government shall constitute, in every district in which there may be any waste-lands capable of being sold or otherwise dealt with on account of Government, a Court consisting of an uneven number of persons, not less than three, of whom the Judge of the District, or the officer presiding in the principal civil Court of original jurisdiction in the district by whatever name his office may be designated, shall be one[b].

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[a] See the Limitation Act, No. IX of 1871, Schedule II, No. 1.

[b] See, as to Coorg, *Gazette of India*, 4th June 1864, p. 514; as to the Central Provinces, *ibid.*, 24th September 1864, p. 751.

Any one or more of the members of which such Court shall consist, shall have power to make all such orders in the case as may be necessary prior to the hearing of the suit.

Power of members.

Provided that, whenever the collector or other officer by whom the original enquiry was held is the officer presiding in the principal civil Court of original jurisdiction in the district, such officer shall not be a member of such Court.

Exclusion of officer making original enquiry.

8. Whenever any Court is constituted under this Act, notice thereof shall be given by a written proclamation, copies of which shall be affixed in the several Courts, and in the offices of the several collectors and magistrates, of the district:

Notice of constitution of special Courts.

and from the date of the issue of such proclamation, no other Court shall be competent to entertain any claim or objection belonging to the class of claims or objections for the trial and determination of which such Court is constituted.

Claims not cognizable in other Courts.

9. The Courts constituted under this Act shall be held at such place, or places, within the limits of their respective jurisdictions, as shall be considered most convenient.

Special Courts where held.

10. In every suit instituted under section 5 of this Act, the claimant of the waste-land, or objector to the sale or other disposition of such land, shall appear as plaintiff; and the collector or other officer aforesaid shall appear as defendant on the part of Government.

Plaintiff and defendant in suit under section 5.

Either party may appear by pleader or by agent.

Appearance.

Provided that, if such other officer as aforesaid be the presiding officer of the principal civil Court of original jurisdiction in the district, the Local Government shall appoint some other officer to appear as defendant in the case on its behalf.

Proviso.

In any suit ordered to be instituted by the Local Government under section 6 of this Act, the Government, by any officer to be appointed for the purpose, shall appear as plaintiff; and the claimant or objector as aforesaid shall appear as defendant.

Plaintiff and defendant in suit under section 6.

11. In suits instituted under this Act, except as hereinafter provided, the proceedings shall be regulated, so far as they can be, by the Code of Civil Procedure.

Regulation of proceedings.

12. The Court shall fix a day for the appearance of the parties, and for the hearing of the suit, of which due notice shall be given to the parties or their agents; and on the day so fixed, the parties or their agents shall bring their witnesses into Court, together with any documents on which they may intend to rely in support of their respective statements.

Procedure before hearing.

Procuring attendance of witnesses.

If either party require the assistance of the Court to procure the attendance of a witness on such day, he shall apply to the Court in sufficient time before the day fixed for the hearing of the suit; and the Court shall issue a subpœna requiring such witness to attend the Court on that day.

Power to require attendance of claimant.

It shall be competent to the Court to require the personal attendance of the claimant of the waste-land, or objector, as aforesaid, on the day fixed for the hearing, or at any subsequent stage of the suit.

Procedure on hearing.

13. On the day fixed for the hearing of the suit, or as soon after as may be practicable, the Court shall proceed to examine the claimant of the waste-land, or the objector, or his agent (when his personal attendance is not required), and the witnesses of the parties;

and upon such examination, and after inspecting the documents of the parties, and making any further enquiry that may appear necessary, shall proceed to pass such order in the case as it may consider just and proper.

No appeal or revision.

14. No appeal shall lie from any decision or order passed under this Act, nor shall any such decision or order be open to revision.

Reference of question of law, &c., to High Court, &c.

15. If, on the trial of any suit under this Act, any question of law, or of usage having the force of law, or the construction of a document affecting the merits of the case, shall arise, on which the Court shall entertain reasonable doubts, the Court may, either of its own motion, or on the application of any of the parties to the suit, draw up a statement of the case, and submit it, with its own opinion, for the opinion of the High Court of Judicature, or of the highest civil Court of appeal and revision in the territory in which the land is situate.

When reference obligatory.

Provided that it shall be the duty of every Court held under this Act to make such reference to such High Court, or Court of appeal, if, in any suit under this Act, any question shall arise involving any principle of general importance, or the rights of a class.

Court may proceed notwithstanding reference,

16. The Court may proceed in the case notwithstanding a reference to the High Court, or other highest civil Court of appeal as aforesaid, and may pass an order contingent upon the opinion of the High Court, or other Court as aforesaid, on the point referred;

but not make final order.

but no final order for the sale or other disposition of the land in question in the suit, or for the admission or rejection of any claim or objection which shall be before the Court in such suit, shall be passed, until the receipt of the order of the said High Court, or highest civil Court of appeal.

Records of cases where deposited.

17. The record of cases disposed of by Courts constituted under this Act shall be deposited amongst the records of the principal civil Court of original jurisdiction in the district in which the property in dispute is situate.

18. No claim to any land, or to compensation or damages in respect of any land, sold or otherwise dealt with on account of Government as waste-land, shall be received after the expiration of three years from the date on which such land shall have been delivered by the Government to the purchaser, or otherwise dealt with.

Limitation as to claims to land sold or dealt with.

If within three years after any lands have been delivered by the Government to the purchaser, or otherwise dealt with, any claimant or objector shall prefer a claim to the land so delivered or otherwise dealt with, or an objection to such sale, or to compensation or damages in respect thereof, in the Court constituted under this Act for the district in which the land is situate; and shall show good and sufficient reason for not having preferred his claim or objection to the collector or other officer as aforesaid, within the period limited under section 1 of this Act; such Court shall file the claim or objection, making the claimant or objector plaintiff, and the collector of the district or other officer as aforesaid (with the like provision as aforesaid if such other officer be the presiding officer of the principal civil Court of original jurisdiction in the district) the defendant in the suit;

Provision for such claims if preferred within time.

and the foregoing provisions of this Act shall be applicable to the trial and determination of the suit.

The report of the officer employed to give delivery, or to take possession, on the part of Government, of the land sold or otherwise dealt with, shall be conclusive evidence as to the date on which such delivery was made, or possession was taken.

19. In any case in which the land has been sold, if the Court shall be of opinion that the claim of the claimant is established, the Court shall not award the claimant possession of the land in dispute; but shall order him to receive from the Government treasury, by way of compensation, a sum equal to the price at which the land was sold, in addition to the costs of suit.

If claim established, possession not to be given, but compensation.

20. If the land shall have been sold subject to any condition or reservation, or shall not have been sold, but shall have been otherwise dealt with on account of the Government, and the Court shall be of opinion that the claim to such land, or the objection of an objector, is established, the Court shall award the claimant or objector to receive such sum, in respect of his interest in such land, as shall be awarded in that behalf under the provisions of Act X of 1870[a] *(for the acquisition of land for public purposes and for Companies)*;

When land sold not absolutely, or not sold but otherwise dealt with.

and thereupon the Local Government shall proceed under the said Act, to obtain an award of the value of such interest.

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[a] See Act No. X of 1870, sec. 2.

Award under two last sections to be in full satisfaction.

21. An award under any of the provisions of the two last preceding sections, shall be in full satisfaction of the claim of the claimant or objector; and shall bar any future claim on his part, in respect to the land in suit, resting on the same cause of action, or on a cause of action which existed prior to the date of the sale or other disposition of the land on account of Government.

Government not barred from awarding compensation for land absolutely sold, though claim be not preferred in time.

22. Nothing in this Act shall be held to prevent the Local Government from awarding to any claimant of waste-land sold on account of Government, on proof to the satisfaction of the Local Government of the claim of such claimant (notwithstanding that he may not have preferred his claim either to the collector or other officer as aforesaid, or to the proper Court constituted under this Act, within the period prescribed by this Act), such amount as compensation for the said land, within the limit as to amount mentioned in section 19 of this Act, if the land have been sold not subject to any condition or reservation, as to such Local Government may seem proper.

Compensation for land sold subject to condition, if claim proved, though not preferred in time.

23. If the land have been sold subject to any condition or reservation, or have been otherwise disposed of, on account of Government, and any claim to such land, or objection to the sale or other disposition of the land, shall be proved to the satisfaction of the Local Government, although not preferred to the collector or other officer as aforesaid, or to the Court constituted under this Act, within the period prescribed by this Act, the Local Government may award to such claimant or objector such amount as to such Local Government may appear to be the value of the interest of such claimant or objector in such land.

Interpretation-clause. Number.

Gender.

24. Unless the contrary appears from the context, words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number; and words importing the masculine gender shall include females.

ACT No. XXIX of 1863.

Received the Governor General's assent on the 7th December 1863.

An Act to declare the receipts of the Banks of Bengal, Madras and Bombay to be sufficient in lieu of the receipts of the Sub-Treasurers of Fort William, Fort St. George and Bombay respectively.

Preamble.

WHEREAS, under the provisions of Act XXIV of 1861[a] (*to enable the Banks of Bengal, Madras and Bombay to enter into arrangements with the Government*

[a] Repealed by Act No. III of 1871.

for managing the issue, payment and exchange of Government Currency-Notes and certain business hitherto transacted by the Government Treasuries), the Bank of Bengal has, through the Governor General of India in Council, entered into an agreement with the Secretary of State for India in Council that so much of the business hitherto generally transacted at the General Treasury of the Government at the Presidency of Fort William as consists of receiving and paying money on behalf of the Supreme Government and the Government of Bengal shall be carried on and transacted by the said Bank :

and whereas the Bank of Madras and the Bank of Bombay have entered into similar agreements through the Governor in Council of Madras and the Governor in Council of Bombay with relation to the business hitherto generally transacted at the treasuries at Madras and Bombay respectively :

and whereas the office of Sub-Treasurer at Fort William and the office of Sub-Treasurer at Fort St. George and the office of Sub-Treasurer at Bombay have been abolished, and the business generally transacted at these offices has for some time past been and is now under the said agreements carried on and transacted by the said Bank of Bengal, Bank of Madras and Bank of Bombay respectively :

and whereas doubts have been entertained whether, in certain cases in which during the existence of the office of Sub-Treasurer the receipt of the Sub-Treasurer was required, the receipt of the Secretary of the Bank of Bengal, or of the Secretary of the Bank of Madras, or of the Secretary of the Bank of Bombay, as the case may be, is a good and sufficient receipt and discharge to the person to whom the same is given :

and whereas it is desirable that these doubts should be removed; It is enacted as follows :—

Receipts of secretaries of Banks good in lieu of those of Sub-Treasurers at presidencies.

1. The receipt of the Secretary of the Bank of Bengal, of the Secretary of the Bank of Madras, and of the Secretary of the Bank of Bombay (as the case may be), granted under the circumstances aforesaid, shall be deemed to be, and always to have been, as good and sufficient a receipt and discharge to the person to whom the same is granted, as the receipt of the Sub-Treasurer of Fort William, or of the Sub-Treasurer of Fort St. George, or of the Sub-Treasurer of Bombay would have been if the office of the said Sub-Treasurer had not been abolished.

Acts in which Sub-Treasurers at presidencies are named to be read as if Banks' secre-

2. In every Act[a] and Regulation in which the words Sub-Treasurer of Fort William, Sub-Treasurer of Fort St. George, or Sub-Treasurer of Bombay occur in connection with the payment of money required to be paid to, or of any act required to be performed by, any one of the said Sub-Treasurers, such

[a] See the repealed Act VIII of 1855, sec. 51.

taries were named instead.

Act or Regulation shall hereafter be read as if the words Secretary of the Bank of Bengal, Secretary of the Bank of Madras, and Secretary of the Bank of Bombay occurred therein, instead of the words Sub-Treasurer of Fort William, Sub-Treasurer of Fort St. George, and Sub-Treasurer of Bombay respectively.

ACT No. XXXI OF 1863.

Received the Governor General's assent on the 16*th December* 1863.

An Act to give effect to the publication of certain orders and other matters in the *Gazette of India*.

Preamble.

WHEREAS the Governor General of India in Council has resolved to publish an official Gazette to be called the *Gazette of India*, containing such orders, notifications, and other matters as the Governor General of India in Council shall direct to be inserted therein ; It is enacted as follows :—

Publication in *Gazette of India* to have effect of publication in other Gazette in which publication is prescribed by law.

1. When in any Regulation or Act now in operation, or in any rule having the force of law, it is directed that any order, notification or other matter shall be published in the official Gazette of any presidency or place, such order, notification or other matter shall be deemed to be duly published in accordance with the requirements of the law, if it be published either in the Gazette in which it would have appeared but for the passing of this Act, or in the *Gazette of India* under the directions of the Governor General of India in Council.

ACT No. XXXII OF 1863[a].

Received the Governor General's assent on the 16*th December* 1863.

An Act to continue in force Act XX of 1862 (*to provide for the levy of Fees and Stamp Duties in the High Court of Judicature at Fort William in Bengal, and to suspend the operation of certain Sections of Act VIII of* 1859 *in the said High Court*).

Preamble.

WHEREAS it is expedient that Act XX of 1862 (*to provide for the levy of Fees and Stamp Duties in the High Court of Judicature at Fort William in Bengal, and to suspend the operation of certain Sections of Act VIII of* 1859 *in the said High Court*) should continue in force for a further period from the first day of January 1864 ; It is enacted as follows :—

Act XX of 1862 continued.

1. Act XX of 1862 shall continue in force until such time as the Governor General of India in Council shall by notification published in the *Gazette of India* appoint for its expiry.

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[a] Repealed, so far as relates to fees, [illegible] by Act No. VII of 1870.